

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. No.262 of 2015 and M.P. No.1 of 2015

- 1 The Government of Tamil Nadu
represented by its Secretary
Education Department
Fort St. George
Chennai 600 009
- 2 The Director of School Education
D.P.I. Campus
College Road
Chennai 600 006
- 3 The District Educational Officer
Krishnagiri
Dharmapuri District

Appellants/
Respondents 1 to 3

vs.

- 1 M. Lourdhudoss
- 2 The Correspondent and Headmaster
St. Antony's Higher Secondary School.
Elathagiri 632 108
Krishnagiri Taluk
Dharmapuri District

Respondents/
Petitioners/ 4th Respondent

Writ Appeal preferred under Clause 15 of the Letters Patent as against the order dated 20.12.2010 passed in W.P. No.37823 of 2003.

presented under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records pertaining to the letter dated 09.10.2003 in Na.Ka.No.3125/Aa2/02 on the file of the 3rd respondent and quash the same consequently directing the respondents to accord approval to the appointment of the petitioner as Office Assistant in the 4th

respondent school w.e.f. 5.4.2002 with all monetary and other attendant benefits.

For appellants Mr. D. Krishnakumar
Special Government Pleader

For R1 Mr. S.M. Edward Stanly

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

This intra-Court appeal arises from the order dated 20.12.2010 passed by the Writ Court in W.P. No.37823 of 2003.

2 For the sake of convenience, the parties are referred to as per their rank in the instant appeal.

3 The aforestated writ petition was filed by the first respondent challenging the order dated 09.10.2003 passed by the third appellant, viz., the District Educational Officer, Krishnagiri, wherein, the approval for his appointment on the post of Office Assistant in the second respondent school was not accorded and as such, his appointment was set at naught.

4 The Writ Court, referring to and relying on several decisions passed earlier by this Court, came to the conclusion that once the ban on appointment stood lifted, the first respondent was entitled to be confirmed on the post as there was no other deficiency, i.e., the appointment of the first respondent was made de hors the statutory provisions or the first respondent lacked some qualification. It was further noted that in a similar fact situation, wherein, the appointment was made during ban period, after the ban was lifted, the appointment was approved and that the appellants have failed to establish that the facts of this case are distinguishable from the facts involved in the other petitions.

5 We have examined the entire case carefully, perused the pleadings and documents appended thereto.

6 The impugned order was passed by the Writ Court on 20.12.2010, directing the second appellant to accord approval within a period of four weeks. The State authorities had not taken any steps to prefer an appeal against the said order till recently when the instant appeal was filed in July 2013. It is stated that the order of the Writ Court has already been complied with. That apart, the first respondent was appointed by the second respondent-school, which is admittedly a minority school. The issue as to whether prior approval for appointment is necessary or not, is not yet

settled and the appellants had also not raised the issue in this appeal, specifically. Thus, in the facts of the case, we are not inclined to interfere with the order passed by the Writ Court, at this stage, leaving the question of prior approval open, to be decided in an appropriate case.

7 As a sequel, the writ appeal is dismissed. Connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Secretary
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Dharmapuri District

1 cc to mr.S.M. Edward Stanly, Sr. 11723

1 cc to Government Pleader, Sr. 11036

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TEJ (CO)

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