

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.NO.10054 OF 2015

Sri Gopala Krishna Government
Aided Primary School
Rep. By its Correspondent / Secretary
N.Gnanam
Perumal Kovil Medu,
Dhadhagapatti Gate, Salem - 636 201.

... Petitioner

Versus

- 1.The District Elementary Educational Officer
Salem District,
Salem - 1.
- 2.The Assistant Elementary Educational Officer
Salem Urban,
Salem - 1.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the 1st respondent to give prior permission to the petitioner school to fill up the existing vacancy in the sanctioned post of Secondary Grade Teacher by considering and passing orders on the application of the petitioner dated 04.07.2013 and re-submitted application dated 17.11.2014.

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

Heard both sides. By consent, the writ petition is taken up

for final disposal at the admission stage itself.

2.The petitioner is an Aided Primary School. It has been established in the year 1888. It caters to the needs of primary education in Sevvapet at Salem District. There are one Headmaster and four Secondary Grade Teachers posts sanctioned for the said school. One among the Teachers, namely Mr.M.Kaliyaperumal, retired from service as Secondary Grade Teacher on 30.06.2013.

3.The petitioner School made an application dated 04.07.2013 to the first respondent seeking to fill up the vacancy. The application was returned on the ground that the same should be made after the constitution of Appointment Approval Committee. Thereafter, the petitioner resubmitted the application stating that the Approval Committee was constituted. The said application was again returned on some other ground. This time, it is stated that clarification from the Director of Elementary Education is necessary and the application could be considered only thereafter.

4.At this juncture, it is relevant to note that in the proceedings dated 17.01.2014, the first respondent, the District Elementary Educational Officer, Salem, has noted that the petitioner School requires one Headmaster and four Secondary Grade Teachers and one of the Teachers post remains vacant due to the retirement of one Mr.M.Kaliyaperumal. If it is so, it is not proper on the part of the respondents to return the applications stating one reason or another.

5.I am of the view that the non filling of the vacancies in the Primary Schools would ultimately affect the young students, particularly, if the vacancies arose due to the retirement of Teachers. One knows about the retirement of a teacher long back. The vacancy does not arise due to the death or resignation. The School authorities shall permit the school to fill up the vacant posts that arose due to the retirement of a teacher, so that the education of the children could not get affected. Now, Article 21A of the Constitution of India has made the primary education a fundamental right.

6.In the light of Article 21A of the Constitution of India, I am of the considered view that the respondents are totally illegal in returning the applications for one reason or other.

7.For the aforesaid reasons, the writ petition is allowed and a direction is issued to the first respondent to give permission to the writ petitioner to fill up the existing vacancy in the sanctioned post of Secondary Grade Teacher due to the retirement of

one Mr.Kaliyaperumal, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

TK

To

1.The District Elementary Educational Officer
Salem District,
Salem - 1.

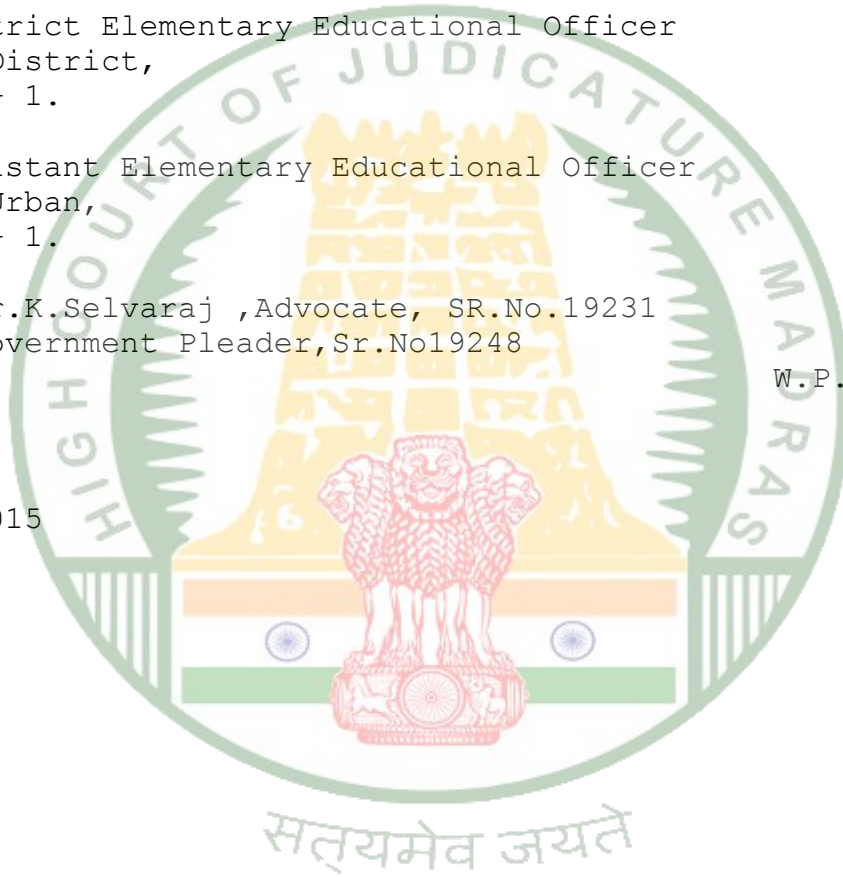
2.The Assistant Elementary Educational Officer
Salem Urban,
Salem - 1.

1 cc to Mr.K.Selvaraj ,Advocate, SR.No.19231

1 cc to Government Pleader,Sr.No19248

W.P.NO.10054 OF 2015

ssi(co)
pmk.8.5.2015



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