

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.16362 of 2015

Vasavi Higher Secondary School,
rep.by its Correspondent & Secretary,
Shevapet, Salem-636 002

Petitioner

vs.

1.The Joint Director of School Education
Appellate Authority (Secondary),
College Road,
Chennai-6

2.The Chief Education Officer,
Salem, Salem District.

3.The District Education Officer,
Salem, Salem District.

4.R.Senthilkumar,
B.T.Assistant,
Vasavi Higher Secondary School,
Shevapet, Salem-636 002

Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified Mandamus to call for the entire records connected with the impugned order passed by the first respondent vide Mu.Mu.No.51853/G2/E1/2014 dated 28.03.2014 and order of the third respondent vide Na.Ka.No.1299/B2/2013, dated 19.03.2013 and to quash the same and direct the respondent 2 and 3 to approve the promotion of Tmt.P.Selvi as Headmistress, w.e.f.17.08.2011, with all consequential benefits in the petitioner school.

For Petitioner : Mr.S.N.Ravichandran

For Respondents: Mr.M.E.Raniselvam,
Addl.G.P. for R1 to R3
Mr.C.Selvaraj, Sr.counsel
for Mr.P.Ganesan for R4

O R D E R

By consent of both the parties, the writ petition itself is taken up for final disposal, particularly, in view of my detailed order dated 10.06.2015, passed in this writ petition.

2. Heard Mr.S.N.Ravichandran, the learned counsel for the petitioner and Mr.M.E.Raniselvam, the learned Additional Government Pleader appearing for R1 to R3 and Mr.C.Selvdaraj, the learned Senior Counsel appearing for the fourth respondent.

4. The petitioner is a Higher Secondary School getting aid upto High School. The petitioner appointed one Selvi as the Headmistress of the High School. Under Rule 15(4-A) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, the Joint Director of School Education is the Appellate Authority against the order passed by the school granting promotion to Tmt.Selvi.

5. The entire problem arose due to the preferring of appeal by the fourth respondent against the appointment of the said Selvi as Headmistress, before the District Educational Officer, the third respondent herein, who is not competent to hear the appeal. The third respondent passed an order, dated 19.3.2013, allowing the appeal of the fourth respondent and refused to approve the appointment of Selvi as the Headmistress of the School. Aggrieved against the non-approval appointment of Selvi as Headmistress, the School filed an appeal, to the first respondent.

6. Further, the fourth respondent filed writ petition in W.P.No.25625 of 2014 seeking a direction to the writ petitioner school to implement the aforesaid order dated 19.3.2013, passed by the third respondent. This Court disposed of the said writ petition on 16.12.2014 and directed the school to pass an order on the representation of the fourth respondent seeking to implement the order of the third respondent, dated 19.3.2013.

7. When the matter was taken by the petitioner school before the Joint Director of School Education, the Joint Director passed an order, dated 28.3.2015, stating that since this Court passed an order, dated 16.12.2014, in W.P.No.25625 of 2014, directing the school to pass orders on the representation of the fourth respondent, he could not pass any order on the appeal, dated 17.4.2013, preferred by the petitioner school. In these circumstances, the petitioner school has filed this writ petition seeking to quash the order dated 19.3.2013 of the third respondent and also the order of the first respondent, dated 28.3.2015, referred above.

8. When the matter came up for admission on 10.06.2015, I passed the following order:

"The petitioner is a higher secondary school getting aid upto High school. The petitioner appointed one Selvi as the Headmistress of the High School. Under Rule 15 (4-A) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, the Joint Director of School Education is the Appellate Authority against the order passed by the school granting promotion to Tmt.Selvi.

2. Instead of making appeal to the Joint Director as per Rule 15(4-A) of the Rules, the 4th respondent preferred appeal to the District Education Officer, the third respondent, who is incompetent to hear the appeal. The third respondent viz., District Education Officer passed an order dated 19.03.2013 allowing the appeal of the 4th respondent.

3. According to the learned counsel appearing for the school, the third respondent did not hear the school as well as Tmt.Selvi. He would further submit that the third respondent is not competent to hear the appeal as per the Rules referred to above.

4. Thereafter, the 4th respondent filed W.P.No.25625 of 2014 seeking for a direction to the petitioner school to implement the order passed by the third respondent dated 19.03.2013. This Court disposed of the said writ petition on 16.12.2014 directing the school to pass an order on the representation of the 4th respondent herein seeking to implement the order dated 19.03.2013 of the third respondent.

5. While so, the 4th respondent also made an appeal dated 08.06.2013 against not granting promotion to him and giving promotion to Tmt.Selvi as Headmaster to the first respondent. Further, the petitioner school also filed an appeal dated 17.04.2013 against the order dated 19.03.2013 of the third respondent District Education Officer before the first respondent.

6. The first respondent viz., Joint Director of School Education passed an order dated 28.03.2014 stating that since this Court passed an order dated 16.12.2014 in W.P.No.25625 of 2014 directing the school to pass orders on the representation of the 4th respondent herein regarding implementation of the order dated 19.03.2014 of the third respondent, the first respondent could not pass any order on the appeal dated 17.04.2013 of the petitioner school as well as the appeal dated 08.06.2013 of the 4th respondent.

7. Now the petitioner school has filed this writ petition to quash the order dated 19.03.2013 of the third respondent and the order dated 28.03.2014 (cis) of the first respondent.

8. I am in agreement with the learned counsel for the petitioner. The third respondent is not competent to decide the appeal. Now the first respondent has to decide as to whether the school was correct in granting promotion to Tmt.Selvi pursuant to the appeal preferred by the 4th respondent.

9. In view of the order dated 16.12.2014 made in W.P.No.25625 of 2014, the first respondent is not inclined to decide the issue as per the order dated 28.03.2014.

10. In view of the above, the order dated 19.03.2013 is liable to be interfered with and the first respondent shall be directed to decide the appeal in view of Rule 15(4-A) of the Rules. But the same cannot be done without hearing the 4th respondent.

11. Ms.M.E.Raniselvam, learned Additional Government Pleader takes notice for respondents 1 to 3. Issue notice to the 4th respondent returnable by 24.06.2015. Private notice is also permitted.

Post on 24.06.2015 at the end of the motion list."

9. It is not in dispute that the concerned appellate authority under the statutory Rules is the first respondent-the Joint Director of School Education. Hence, I have no hesitation to quash the order dated 19.3.2013 of the third respondent, as he has no jurisdiction to pass an order against the appointment of one Selvi as Headmistress by the petitioner school.

10. In these circumstances, while setting aside the order of the third respondent, dated 19.3.2013, the matter is remanded back to the first respondent to decide the appeal of the fourth respondent relating to the promotion given to one Selvi as Headmistress by the writ petitioner school and also the appeal preferred by the writ petitioner school questioning the non-approval of the appointment of the said Selvi as Headmistress.

11. I am of the view that the order, dated 16.12.2014, in W.P.No.25625 of 2014, would not come in the way of the first respondent deciding the statutory appeal of the fourth respondent questioning the appointment of Selvi as Headmistress by the writ petitioner school and also the appeal preferred by the writ petitioner questioning the non-approval, in the aforesaid circumstances. Hence, the order dated 25.3.2015 of the first respondent is also set aside.

12. In the result, the matter is remanded back to the first respondent, who shall decide the appeal of the fourth respondent questioning the appointment of Selvi as Headmistress by the writ petitioner school and also the appeal preferred by the School questioning the non-approval of the said Selvi as Headmistress. The first respondent is directed to hear both the petitioner as well as the fourth respondent and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

13. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk

To

1.The Joint Director of School Education
Appellate Authority (Secondary),
College Road,
Chennai-6

2.The Chief Education Officer,
Salem, Salem District.

3.The District Education Officer,
Salem, Salem District.

+1cc to M/s. C.S. Associates, Advocate, S.R.No.31207

+1cc to the Government Pleader, S.R.No.31318

NM(CO)
EU(08/07/2015)

W.P.No.16362 of 2015

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