

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-07-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.21756 of 2015

Periyasaamy Aided Middle School
Rep. By its Correspondent/Secretary
G.Kalavathi
Mettur Main Road
Ammamet 638 311
Bhavani Taluk
Erode District

... Petitioner

vs

1. The District Elementary Educational
Officer
Old Railway Station Road
Erode
2. The Assistant Elementary Educational
Officer
Ammamet 638 311
Erode District

... Respondents

v

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the first respondent to grant permission as per Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 to fill up one vacancy in the post of Physical Education Teacher, in compliance with G.O.(Ms) No.231, dated 11.8.2010, School Education Department by considering the recommendations dated 1.7.2013, 13.12.2013, 14.2.2014 and 6.5.2015 made by the second respondent and the petitioner's representations dated 10.7.2012, 27.6.2013, 13.2.2014 and 28.4.2015.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.R.A.S.Senthilvel
Additional Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The deponent of the affidavit filed in support of this writ petition, viz. the Correspondent/Secretary of the petitioner-School, would state that the School was established on 31.5.1936, for imparting education in elementary school level to the rural children and is running for the past 80 years and developed a good reputation.

3.It is further stated that one Mrs.T.P.Dhanalakshmi was appointed as a Physical Education Teacher, on 19.8.1981, with the approval of the first respondent dated 31.8.1981, and she retired on 31.12.2011. According to the deponent, the School Committee passed a resolution dated 6.7.2012, to fill up the vacancy position of Physical Education Teacher, and in this regard, a representation dated 10.7.2012, was sent to the respondents seeking permission to fill up the vacancy, and the second respondent has verified the vacancy position and submitted a report on 16.7.2012, to the first respondent, who, vide proceedings dated 3.8.2012, directed the second respondent to furnish the vacancy position and it was also furnished by the petitioner to the second respondent on 7.8.2012, and the second respondent, in turn, forwarded a proposal to the first respondent for necessary approval.

4.The deponent would further state that the petitioner-School was issued with a communication by the first respondent stating that it has to get necessary orders from the Joint Director of School Education (Aided) and since nothing has taken place, the petitioner sent a reminder dated 28.4.2015, based on which, the second respondent has sent a letter in Na.Ka.No.106/2015/A1 dated 6.5.2015, to the first respondent stating that unless necessary orders are obtained from the Joint Director (Aided), Directorate of Elementary Education, Chennai, the approval cannot be granted and also enclosed the resolution passed by the School Committee.

5.The learned Counsel appearing for the petitioner, would submit that the post of Physical Education Teacher remains vacant right from the year 2012 and hence, the petitioner came forward to file this writ petition, and prays for appropriate orders.

6.Per contra, Mr.R.A.S.Senthilvel, learned Additional Government Pleader, who accepted notice on behalf of the respondents, would submit that once the incumbent retired from service, the post should be surrendered and thereafter, necessary approval has to be given for filling up the said post and the matter is pending with the Joint Director of School Education (Aided).

7.This Court has carefully considered the rival submissions and also perused the materials placed before it.

8.It is unfortunate that the post of Physical Education Teacher is kept vacant right from the year 2012 and the delay on the

part of the concerned authorities, would exhibit the intention that they do not want to impart physical education to the Elementary School students. Be that as it may, this Court, in the light of the above facts and circumstances, directs the Joint Director of School Education (Aided), Directorate of Elementary Education, Chennai, to take a decision with regard to the sanction/filling up of the post of Physical Education Teacher in the petitioner-School, within a period of four weeks from the date of receipt of a copy of this order, and inform the decision taken, to the respondents 1 and 2, with a copy marked to the petitioner, and the respondents 1 and 2, on receipt of the same, shall take appropriate action, in accordance with law, within a period of two weeks thereafter and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To:

1. The District Elementary Educational Officer
Old Railway Station Road
Erode
2. The Assistant Elementary Educational Officer
Ammamet 638 311
Erode District

Copy to:

The Joint Director of School Education
(Aided)
Directorate of Elementary Education
Chennai

+1cc to Government pleader sr.no. 38056
+1cc to N.Monokaran, Advocate sr.no.36920

W.P.No.21756 of 2015

rv[co]
srg 03.08.2015