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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.6.2015

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

W.A.No.30 of 2013

Joy Jabamalar .. petitioner

vs.

1. C.M.S.Evangelical Schools of
Alwanery, Maruthakulam &
Kodankulam Pastorates
rep by its Correspondent
Ambalam Post Via - Moolakaraipatti
Tirunelveli District

2. The State of Tamil Nadu
rep by its Secretary to Government
School Education Department
Fort St. George, Chennai-9

3. The Director of Elementary Education
Chennai-9

4. The District Elementary Educational Officer
Tirunelveli District
Tirunelveli

.. Respondents

Prayer: Writ appeal has been filed against the order of the
learned single Judge made in W.P.No.41273 of 2005 dated 27.4.2010.

W.P.No.41273 of 2005:- Writ petition filed under Article 226 of
the constitution of India praying for issuance of a writ of
certiorarified mandamus calling for the records pertaining to the
order passed by the 1st Respondent in G.O.Ms.No. 39 school Education
Department dated 21-03-2003 in so far as clause 7 of the Government
order and the consequential order passed by the 3rd respondent in his
proceedings in O.Mu. No. 4201/AA2/2004 dated 8-5-2004 and quash
the same ; and direct the Respondents to approve the appointment.

For petitioner : Mr.M.Muthappan

For Respondents: R.Ravichandran
A.G.P. for R2 to R4
R.1 - served



O R D E R

(Order of the Court was made by M.JAICHANDREN, J.)

This writ appeal has been filed against the order of the learned single Judge, dated 27.4.2010, made in W.P.No.41273 of 2005.

2. The first respondent in the present writ appeal namely, C.M.S.Evangelical Schools of Alwanery, Maruthakulam & Kodankulam Pastorates had filed the writ petition before this Court praying for a writ of Certiorarified Mandamus to call for the records pertaining to clause 7 of the order passed by the first respondent, the State of Tamil Nadu, in G.O.Ms.No.39, School Education Department, dated 21.3.2003, and the consequential order passed by the District Elementary Educational Officer, Tirunelveli, the fourth respondent herein, in his proceedings in O.Mu.No.4201/AA2/2004, dated 8.5.2004 and to quash the same and to direct the respondents in the writ petition to approve the appointment of the appellant herein as a Craft Instructor in tailoring from the date of her appointment and to confer all the consequential benefits.

3. The learned single Judge, by his order, dated 27.4.2010, made in W.P.No.41273 of 2005, had dismissed the writ petition holding that the respondents in the writ petition had not attempted to reduce the sanctioned strength of the teachers of the petitioner Institution by way of the impugned order. There was no interference by the respondents in the administration of the educational Institution, as alleged by the petitioner.

4. It had also been noted that there was no intake in the class for weaving, in the educational Institution concerned. Even otherwise, there was no vested right in the petitioner Institution to convert one post to that of another sanctioned post and it was not open to the petitioner Institution to contend that there is a possibility of conversion of the post of the teacher in tailoring into that of weaving. It had also been held that no similarity can be pointed out between a craft teacher in music and a craft teacher in tailoring. Further, it was not open to the petitioner Institution to contend that between a craft teacher in music and a craft teacher in tailoring, there was a possibility of conversion and that a similar conversion should also be permitted with regard to the other subjects, as well. Therefore, the learned single Judge had held that the rejection of the request of the petitioner Institution for converting the post of teacher in weaving into that of tailoring cannot be held to be improper or illegal, in view of clause 7 of the Government Order, in G.O.Ms.No.39, School Education Department, dated 21.3.2003, wherein it has been made clear that such a conversion is not permissible from 12.7.2002.



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5. The learned counsel appearing on behalf of the appellant had contended that clause 7 of the Government Order, in G.O.Ms.No.39, School Education Department, dated 21.3.2003, permits the conversion of the post of teacher in music into that of tailoring. However, it does not permit the conversion of the post of the teacher in weaving as that of tailoring. As such, it is discriminatory in nature. Even though weaving and tailoring are proximate in nature, clause 7 of the Government Order prohibits such a conversion, erroneously.

6. The learned counsel appearing on behalf of the respondents 2 to 4 had submitted that clause 7 of the Government Order, in G.O.Ms.No.39, School Education Department, dated 21.3.2003, makes it clear that there could be a conversion of the post of a teacher in music into that of a teacher in tailoring. Clause 7 of the Government Order has been incorporated for specific reasons. Therefore, it would not be open to the appellant to claim that a similar conversion ought to be granted for conversion of the post of teacher in weaving into that of tailoring. Hence, the contention raised on behalf of the appellant that clause 7 of the Government Order, in G.O.Ms.No.39, School Education Department, dated 21.3.2003, was discriminatory in nature, is liable to be rejected.

7. In view of the contentions raised on behalf of the parties concerned and on a perusal of the records available, we do not find any cause or reason to interfere with the order passed by the learned single Judge, dated 27.4.2010, in W.P.No.41273 of 2005.

8. Clause 7 of the Government Order, in G.O.Ms.No.39, School Education Department, dated 21.3.2003, permits the conversion of the post of teacher in music into that of tailoring. It has been issued for a specific purpose, as stated by the learned counsel appearing on behalf of the respondents 2 to 4. Such a permission cannot be extended for other posts, as claimed by the appellant. The appellant has not been in a position to substantiate her claim that clause 7 of G.O.Ms.No.39, School Education Department, dated 21.3.2003, is arbitrary in nature. Therefore, the reasons given by the learned single Judge rejecting the writ petition, in W.P.No.41273 of 2005, by his order, dated 27.4.2010, cannot be held to be erroneous in nature. As such, the contentions raised on behalf of the appellant cannot be countenanced. In such circumstances, We do not find sufficient reasons to interfere with the order passed by the learned single Judge, dated 27.4.2010, made in W.P.No.41273 of 2005. As the present writ appeal is devoid of merits, it is liable to be dismissed. Hence, the writ appeal is dismissed. No costs. Connected M.P.No.1 of 2013 is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To:

1. The State of Tamil Nadu
rep by its Secretary to Government
School Education Department
Fort St. George, Chennai-9
2. The Director of Elementary Education
Chennai-9
3. The District Elementary Educational Officer
Tirunelveli District
Tirunelveli

1 cc to Mr.M.Muthappan, Advocate, Sr. 27253
1 cc to Government Pleader, Sr. 27700

W.A.No.30 of 2013

LRS (COO)
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