

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.04.2015

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No.15376 of 2013 &
M.P.No.1 of 2014

B.B.Sibi Dhas

.. Petitioner

Vs

1.The Joint Director of School Education,
(Higher Secondary)
College Road,
Nungambakkam,
Chennai - 600 006.

2.The Chief Educational Officer,
Nagercoil, Kanniyakumari District.

3.The District Educational Officer,
Thuckalay, Kanniyakumari District.

4.The Correspondent,
Yettacode Higher Secondary School,
Yettacode, Veeyanoor Post-629 177,
Kanniyakumari District.

5.K.C.Babu Dhas

.. Respondents

R5 impleaded as per order of this Court in M.P.No.1 of 2015, dated
23.04.2015

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to forbear the respondents 1 to 3 from approving the appointment of P.G.,Teacher - History, Commerce, Sewing Teacher and two Secondary Grade Teachers, for the fourth respondent school, which are contrary to the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 and as per the conditions of the Registered Trust Deed dated 20.02.2006.

For Petitioner .. Mr.P.Arivudainambi

For Respondents .. Mr.R.Vijayakumar
Addl. Government Pleader for RR1-3
Mr.R.Thiyagarajan Sr., counsel for
Mr.C.Johnson for R4
M/s.P.Mahalakshmi for R5

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2.Heard Mr.P.Arivudainambi, learned Counsel appearing for the petitioner, Mr.R.Vijayakumar, learned counsel appearing for the respondents 1 to 3, Mr.R.Thiyagarajan, learned Senior counsel assisted by Mr.C.Johnson, learned counsel for the fourth respondent and Mrs.P.Mahalakshmi, learned counsel appearing for the fifth respondent.

3. The petitioner was appointed as B.T., Assistant (History) on 25.07.2007 at the Aided Yettacode Higher Secondary School. It is stated that in the said school a vacancy arose in the post of P.G.Teacher (History) on 02.05.2013, on account of promotion of the existing incumbent. The petitioner would state that he is the only qualified candidate available as per the conditions of the trust, which has established and administering the fourth respondent institution. Various other averments have been made with regard to the trust deed and the manner in which the office bearers of the trust have to be selected and the term of office. However, in the light of the prayer sought for in this Writ Petition, this Court is of the opinion that those averments need not be adverted to. The petitioner seeks for issuance of a Writ of Mandamus to forbear the respondents 1 to 3 namely, the official respondents from approving the appointment of P.G.Teacher in History, Commerce, Sewing Teacher and two Secondary Grade Teachers for the fourth respondent school contrary to the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Rules , 1974, and as per the conditions of the Registered Trust Deed dated 20.02.2006.

4. The District Educational Officer has filed a counter affidavit stating that if the proposals are received in compliance with the Rules regarding educational qualification, the approval would be granted by him and no such proposal was received for appointment till date. Further, it is stated that even presuming any appointment is made unless the proposal is in accordance with Rules, approval will not be granted during the direct payment period. Therefore, it is stated that the Writ Petition is not maintainable.

5. In the light of the stand taken by the third respondent, which is not being disputed by the petitioner or the other private respondent, the prayer sought for in the Writ Petition is not maintainable and liable to be rejected as being pre-mature. Further the institution is under the control of the department and the salary of the teaching and non-teaching posts are disbursed through the department. In such circumstances, the question of issuing Writ of Mandamus as sought for at this juncture does not arise and accordingly, Writ Petition is dismissed as being pre-mature. However, this Court has not gone into the other contentions raised by the petitioner nor the contentions with regard to the term of office of the Managing Trustee or the interpretation given by the Trust Deed, etc., and all other contentions are left open. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

pbn

To

1.The Joint Director of School Education,
(Higher Secondary)
College Road,
Nungambakkam,
Chennai - 600 006.

2.The Chief Educational Officer,
Nagercoil, Kanniyakumari District.

3.The District Educational Officer,
Thuckalay, Kanniyakumari District.

1 cc to Mr.P. Arivumathi, Advocate, sr. 22678

1 cc to Government Pleader, Sr. 22536

1 cc to Mr.C. Johnson, Advocate, Sr. 22414

1 cc to Ms.P.Mahalakshmi, Advocate, Sr. 22442

W.P. No.15376 of 2013

TEJ (CO)

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