

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.26384 of 2016

and

W.M.P.No.22615 and 22616 of 2016

A.Vasanthi

.. Petitioner

Versus

1. The District Elementary Educational Officer,
Thiruvannamalai Union,
Thiruvannamalai District.

2. The Additional Assistant Elementary
Educational Officer,
Thurinjapuram Union,
Thiruvannamalai District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued by the 2nd respondent in Na.Ka.No.01/A2/2016 dated 19.07.2016 and to quash the same and consequently, direct the respondents to promote the petitioner to the post of B.T.Assistant (Science) in operation of the panel issued by the 2nd respondent dated 04.01.2016.

For Petitioner

: Mr.G.Sankaran

For Respondents

: Mr. Digvijay Pandian

Additional Government Pleader

ORDER

By consent of both parties, the present writ petition is taken up and disposed of at the admission stage itself.

2. The prayer in the writ petition is quash the proceedings dated 19.07;.2016 issued by the 2nd respondent and to issue a consequential direction to the respondents to promote the petitioner to the post of B.T.Assistant (Science) in operation of the panel issued by the 2nd respondent dated 04.01.2016.

3. The petitioner was appointed as Secondary Grade Teacher in Elementary Education in Thuringapuram Union, Thiruvannamalai District in the year 1996. Thereafter, she was promoted to the post of Primary School Headmaster based on the seniority on 16.06.2008. According to the petitioner, she was qualified with B.Lit in the year 2003 and also B.Ed. through Indira Gandhi National Open University (IGNOU) in the year 2009. Further, she has completed B.Sc. (Physics) in the year 2015 through Distance Education conducted by St. Peters University, Chennai. Therefore, according to the petitioner, she is eligible for promotion to the post of B.T.Assistant (Science) and her name was also included in the panel of promotion to the post of B.T.Assistant (Science) as on 01.01.2016 in Sl.No.1. While so, the 2nd respondent issued the impugned order dated 19.07.2016 deleting the name of the petitioner in the panel for promotion to the post of B.T.Assistant for the year 2016 on the ground that the St. Peter's University is not a recognized University and therefore, the decree obtained by the petitioner is not a valid one, inter alia, the petitioner has not produced the validity certificate to show that such decree obtained by her is valid in spite of calling upon her to do so. Challenging the same, the present writ petition has been filed.

4. The only point which has been raised by the learned counsel for the petitioner is that the impugned order dated 19.07.2016 has been passed without issuing any notice to the petitioner. According to the learned counsel for the petitioner, as per UGC Notification, the St. Peters University has been recognized by UGC for the Academic Year 2012-13. Therefore, the impugned order, which has been passed without giving any notice to the petitioner, is illegal. According to the learned counsel for the petitioner, the petitioner has produced G.O.Ms.No.39 P&AR Dept. dated 30.04.2014, which contains the Universities recognised by UGC, wherein, St. Peter University has been included as one of the recognized Universities. Therefore, the learned counsel for the petitioner prayed for allowing the writ petition.

5. The learned Additional Government Pleader would contend that the decree obtained by the petitioner is not a valid one and hence, the 2nd respondent has rightly passed the impugned order, deleting the name of the petitioner from the promotional panel. Even according to the petitioner, in the affidavit, St. Peter's University has been accorded continuation of recognition for the next academic year i.e. 2012-2013 for offering programme through distance mode subject to outcome of the case pending before the Hon'ble Supreme Court.

6. I heard the counsel for both sides. The petitioner, who has been placed in Sl.No.1 in the seniority list, has been removed from the panel list, without issuing any notice to her, which is in violation of principles of natural justice. Before deleting her name, she should have been given a notice. The second respondent has straightaway passed the impugned order and therefore, the impugned order is set aside only on the ground that it has been passed without giving any notice to the petitioner.

7. At this juncture, the learned counsel appearing for the petitioner submitted that the petitioner is willing to submit her explanation to the impugned order of the second respondent explaining as to how the B.Sc. Degree conferred to her by St. Peter's University is a valid one and after receiving the same, the respondents may be directed to consider it and pass orders thereon.

8. Having regard to the above submission of the counsel for the petitioner, the petitioner is directed to treat the the impugned order of the second respondent as a show cause notice. The petitioner is directed to submit her explanation to the said show cause notice, within a period of one week from the date of receipt of a copy of this order. The second respondent, after receiving the explanation, shall pass orders on merits and in accordance with law, within a period of two weeks thereafter. It is made clear that till such order is passed, no promotion should be given.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

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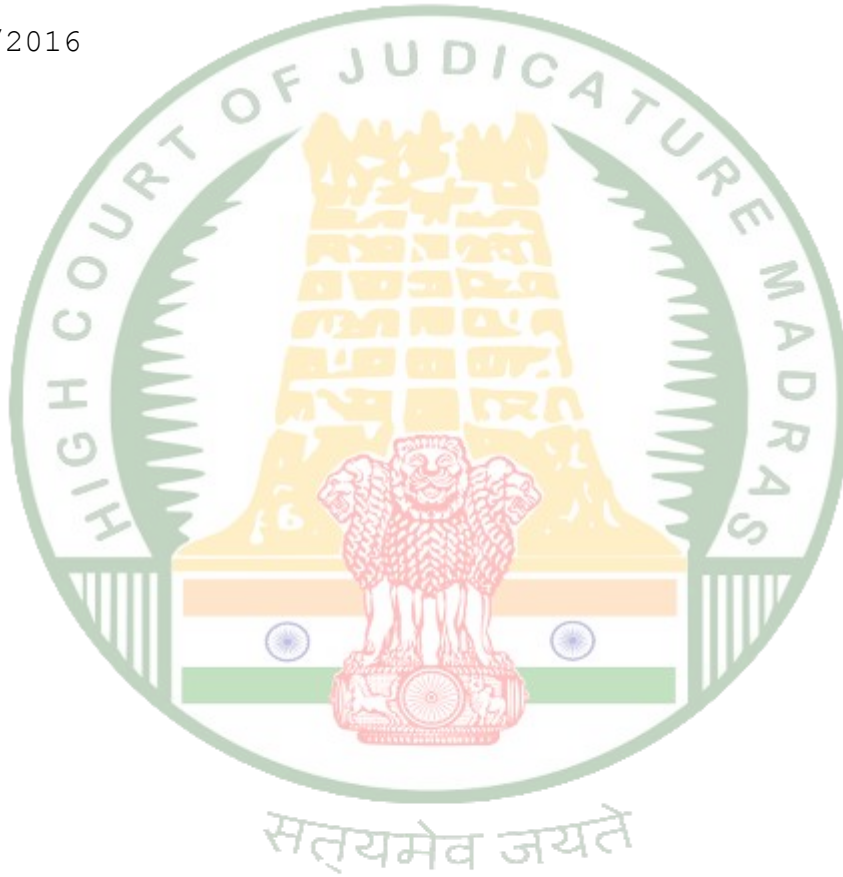
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+1cc to the Government Pleader Sr.43027
+1cc to Mr.G.Sankaran, Advocate Sr.42960

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srg 22/08/2016



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