

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32818 of 2016

Sengunthar Mahajana Higher
Secondary School,
rep. by the Secretary,
Gurusampalayam,
Namakkal District - 637 403. Petitioner

vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai-6.

2.The Chief Educational Officer,
Namakkal District,
Namakkal.

3.The District Educational Officer,
Namakkal District,
Namakkal.

4.S.Chitra Devi

5.M.Lalitha

... Respondents.

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the first respondent to pass necessary orders on the letter of representation dated 19.7.2016 bearing Na.Ka.No.14/2016 submitted by the petitioner herein to the first respondent within the time frame directed by this Court.

For Petitioner	:	Mr.S.Natana Rajan
For Respondents	:	Mr.S.N.Parthasarathy, Govt. Advocate, for R.1 to R.3

ORDER

The petitioner school has come up with the present writ petition for a mandamus, directing the first respondent to pass necessary orders on their letter of representation dated 19.7.2016 bearing Na.Ka.No.14/2016 submitted to the first respondent within the time frame directed by this Court.

2. The case of the petitioner, in brief, is as follows:-

(a) Originally, the fifth respondent was working as a teacher in the petitioner school and she was transferred to Bharathi High School, Reddipatti by order dated 17.12.2014. Thereafter, the fourth respondent, who was working in the petitioner school was transferred to Bharathi High School, Reddipatti by order dated 10.12.2015. One Bharathi, who was working in the petitioner's school as Maths Teacher was promoted as Post Graduate Teacher on 5.1.2016 and hence, the post of Maths teacher fell vacant in the petitioner school.

(b) Later, the fifth respondent, by letter dated 11.1.2016, gave a letter of requisition to the petitioner school for migrating her from Bharathi High School, Reddipatti to the petitioner school. As she was the first teacher who was transferred from the petitioner school, by resolution dated 18.1.2017 passed by the Administrative Committee, it was resolved to re-migrate her to the petitioner school instead of going for a new appointment and the same was properly communicated to the third respondent.

(c) While so, the fourth respondent gave a representation dated 21.1.2016 to the petitioner to re-transfer her to the petitioner school in the existing vacancy. She has also filed a writ petition before this Court in W.P.No.3545 of 2016 to consider her representation and this Court, by an order dated 2.2.2016, directed the second respondent therein to consider her representation on merits and in accordance with law. Thereafter, the second respondent sent a letter dated 22.4.2016 to the Secretaries of both the schools to issue consent letter for appointing the fourth respondent. The petitioner school sent a reply dated 29.4.2016 to the second respondent stating that already the fifth respondent requested for transfer and her request was accepted in the Administrative Committee. In the meantime, the third respondent sent a letter dated 26.5.2016 recommending the re-transfer of the fifth respondent to the petitioner school.

(d) While so, the counsel for the fourth respondent sent a

notice dated 22.6.2016 demanding compliance of the order passed by this Court in W.P.No.3545 of 2016 dated 2.2.2016. To the said notice, a suitable reply dated 4.7.2016 was sent by the petitioner school enclosing the letter sent by the second respondent. Subsequently, the second respondent sent a letter dated 4.7.2016 to the third respondent addressing a copy to the petitioner and also to the Secretary of Bharathi High School, Reddipatti acknowledging the receipt of the said letter dated 26.5.2016 sent by the third respondent, alleging that the submission made by the Secretary of the petitioner school is with ulterior motive and advised the petitioner school to act according to the letter dated 20.4.2016 sent by the second respondent.

(e) Thereafter, the petitioner school sent a letter dated 18.7.2016 to the third respondent stating that the act of the second respondent in not appointing the teacher as resolved by the Administrative Committee of the petitioner school and insisting the appointment of the teacher not resolved by the committee is not according to G.O (Misc) No.1289, Education, Science and Technical Department dated 18.6.1982. Because of the adamant stand of the second respondent in directing the petitioner school to pass a resolution recommending the fourth respondent, though it is against the guidelines of the said GO, the petitioner school addressed a letter dated 19.7.2016 to the first respondent requesting him to pass necessary orders for appointment of the fifth respondent as teacher in the petitioner school. Though the first respondent received the said letter, till date, no orders have been passed. Hence, left with no other alternative, the petitioner school has come up with the present writ petition for the relief set out earlier.

3. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate, who has taken notice on behalf of the respondents 1 to 3. In view of the limited order to be passed hereunder, this Court is of the view that notice is not necessary for the respondents 4 and 5.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the first respondent to consider the representation dated 19.7.2016 bearing Na.Ka.No.14/2016 submitted by the petitioner school and pass appropriate orders, on merits and in accordance with law and in the light of the Government Order in G.O (Misc) No.1289, Education, Science and Technical Department dated 18.6.1982 and also in the light of the letter of the third respondent dated 26.5.2016 recommending the re-transfer of the fifth respondent to the petitioner

school, within a period of three weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sbi

To

1.The Director of School Education,
DPI Campus, College Road,
Chennai-6.

2.The Chief Educational Officer,
Namakkal District,
Namakkal.

3.The District Educational Officer,
Namakkal District,
Namakkal.

+1 CC to Mr. S. Natana Rajan, Sr.No.53123

+1 CC to Government Pleader Sr.No.53512

W.P.No.32818 of 2016

NR (CO)

MD : 07/10/2016

सत्यमेव जयते

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