

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016
CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5136 of 2016
And
W.M.P.No.4498 of 2016

B.Madheswari

... Petitioner

Vs.

- 1 The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 2 The District Elementary Educational Officer,
Dharmapuri - 5.
- 3 Vallalar Arivalayam Aided Elementary School
Nattanmaipuram
Represented by its Administrator / District
Elementary Educational Officer,
Dharmapuri. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd Respondent to transfer the 3 surplus secondary grade teachers along with the posts from the 3rd Respondent school to the Petitioners school by way of deployment by considering the representation of the Petitioner's dated 05.02.2016.

For Petitioner : Mr.T.Sellapandian
For Respondents : Mr.K.Dhananjeyan
Special Government Pleader

O R D E R

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

2.The present writ petition has been filed seeking a Mandamus directing the second Respondent to transfer the three surplus Secondary Grade Teachers along with the posts from the third Respondent School to the Petitioner's School by way of deployment by considering the representation of the petitioner dated 05.02.2016.

3.In the affidavit filed in support of this petition, it has

been stated that the Vallalar Arivalayam Aided Elementary School is functioning with I to V Standard with aid from the Government and from VI to VIII standard with self finance. The cadre strength of the petitioner's School has been fixed by the second respondent by inspecting the School in the month of August every year and for the academic year 2014-15, after assessing the students' strength, the cadre strength of the teaching staff has been fixed as, the School is entitled for one Head Master and five Secondary Grade Teachers. For the academic year 2015-2016 also the department has conducted surprise visit on 23.09.2015, 25.09.2015 and 06.10.2015 and an average strength has to be arrived for fixing the cadre strength in proportionate to the students strength as per the annexure found in G.O.Ms.No.231, dated 11.08.2010.

4.It is further stated that the petitioner School and the third respondent School are under the same management and since there is dispute with reference to the management, the second respondent is functioning as the administrator of the third respondent and further, in the third respondent School, three Teachers have been declared as surplus by the second respondent even in the year 2014-2015 and since the second respondent is the authority to issue deployment order in respect of surplus post from one school to the needy school, the second respondent ought to have deployed three Teachers from the third respondent school to the petitioner's school since both the schools are under the same management.

5.The petitioner in this regard, made representation to the first respondent on 15.01.2016. However, the second respondent vide order dated 03.02.2016 posted one N.Senthamarai, Secondary Grade Teacher of the third respondent School to the petitioner's School on deputation without deploying the Teacher along with the post and therefore, it is contrary to G.O.Ms.No.525 and G.O.Ms.No.231. The petitioner, therefore submitted representation to the second respondent on 05.02.2016 requesting him to transfer three Teachers found to be surplus in the third respondent School to the petitioner's School, but the same has not been considered so far. Hence, this petition.

6.The respondents have filed a detailed counter wherein, in paragraph no.9 it has been stated that the Director of Elementary Education, Chennai had already been intimated by the District Elementary Educational Officer, Dharmapuri stating that there are four excess Secondary Grade Teachers posts (with Teachers) available in Vallalar Arivalayam Aided Elementary School, Nattanmaipuram in Rc.No.3156/A1/2015 dated 16.11.2015, enclosing the staff fixation statement for the year 2015-16. The District Elementary Educational Officer, Dharmapuri in his letter Rc.No.3741/A1/2015 dated 28.01.2016 had already sent proposals to the Director of Elementary Education seeking permission to transfer 1 excess post existing in Vallalar

Arivalayam, Nattanmaipuram to the needy school of Vallalar Arivalayam, Kurinjinagar and orders from the Director of Elementary Education is awaited. In the meantime, in the interest of education of school children, the District Elementary Educational Officer, Dharmapuri, being the administrative Officer for Vallalar Arivalayam Schools, issued orders in Rc.No.3741/A1/2015 dated 03.02.2016 deputed N.Chenthamarai (Secondary Grade Teacher working in Vallalar Arivalayam Primary School, Nattanmaipuram in excess post) to Vallalar Arivalayam Middle School, Kurinjinagar in the vacant place of one Secondary Grade Teacher Post occurred due to the retirement of S.Madammal.

7.Hence, as per the counter affidavit, the proposal was already sent to the Director of Elementary Education seeking permission to transfer one excess post existing in Vallalar Arivalayam, Nattanmaipuram to the needy school of Vallalar Arivalayam, Kurinjinagar. However, now it is the submission of the learned counsel appearing for the petitioner that the School is in need of three Teachers.

8.Considering the submissions made by the learned counsel appearing for the petitioner, the second respondent is directed to send proposal to the first respondent seeking permission to transfer three Teachers found to be surplus in the Vallalar Arivalayam Aided Elementary School, Nattanmaipuram to the Vallalar Arivalayam Aided Elementary School, Kurinji Nagar, within a period of two weeks from the date of receipt of a copy of this order and the first respondent on receipt of the same, shall consider the said proposal and pass appropriate orders, within a period of four weeks thereafter.

9.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

- 1 The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 2 The District Elementary Educational Officer,
Dharmapuri - 5.

3 Vallalar Arivalayam Aided Elementary School
Nattanmaipuram
Represented by its Administrator / District
Elementary Educational Officer,
Dharmapuri.

+1 cc to Mr.T.Sellapandian, advocate,sr.60856

+1 cc to Government Pleader,sr.61574

krd 11/11

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