

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.7680 of 2010

C.Palani

.. Petitioner

vs.

1.The District Educational Officer,
Thirupathur,
Vellore District.

2.The Secretary,
Hindu Girls Higher Secondary School,
Ambur, Vellore District.

3.S.Umadevi

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders passed by the first respondent in his proceedings in Na.Ka.No.023/Aa1/2009 dated 09.01.2009 and Na.Ka.No.2457/Aa2/2009 dated 25.05.2009 and quash the same and direct te second respondent to send fresh approval application to the first respondent to approve the petitioner appointment as BT-Assistant-Tamil in the 2nd respondent school and consequently direct the first respondent to approve the same.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.R.Rajeswaran,
Special Govt. Pleader for R1

Mr.V.R.Rajasekaran for R2

Mr.L.Chandrasekarn for R3

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders passed by the first respondent in his proceedings in Na.Ka.No.023/Aa1/2009 dated 09.01.2009 and Na.Ka.No.2457/Aa2/2009 dated 25.05.2009 and quash the same and direct the second respondent to send fresh approval application to the first respondent to approve the petitioner appointment as BT-Assistant-Tamil in the second respondent school and consequently direct the first respondent to approve the same.

2. The petitioner would state that he has studied Tamil Pandit Training course in the Institute of Education, Saidapet, Chennai during the academic year 1997-98, which is the basic qualification for the post of BT Assistant (Tamil) and the petitioner had also studied B.Lit., (Tamil), M.A. (Tamil) and M.Phil. (Tamil) through Distance Education System in the University of Madras and he had also registered the above with the District Employment

Exchange, Vellore. The second respondent is a Government aided management school, which is governed by Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and he was appointed as BT Assistant (Tamil) in the second respondent school on temporary basis from 2003. The petitioner would further state that a vacancy arose to the post of Tamil Pandit [BT Assistant-Tamil] due to the promotion of one Ms.K.Jayashree on 01.07.2006 and the second respondent obtained permission from the first respondent to appoint a BT-Assistant Tamil in the said vacant place, vide proceedings dated 27.08.2007. Thereafter, the second respondent invited applications from eligible candidates and in the said advertisement, communal ratio was stated as “Scheduled Caste General” and the second respondent also called for list of eligible candidates from the District Employment Office, Vellore to fill up the above said post and since the petitioner is eligible, he applied to the second respondent for appointment of the said post.

3. On 04.09.2008, the second respondent School committee conducted an interview to assess the merits and ability and considering the merits and ability, the second respondent school committee selected and appointed the petitioner as BT Assistant Tamil on 17.09.2008 and also entered into an

agreement with the petitioner in Form VII A (Rule -5) with respect to appointment of permanent teacher. The second respondent has sent an application dated 19.09.2008 to approve his appointment as BT Assistant Tamil but the first respondent rejected the said approval in Na.Ka.No.023/Aa1/2009, vide order dated 09.01.2009 on the ground that communal ratio was not followed. The first respondent also passed another order in proceedings Na.Ka.No.2457/Aa2/2009 dated 25.05.2009 stating that the said post ought to have been filed under communal ratio of "General Category" and in the above said two orders, different reasons have been stated in refusing to give approval for the petitioner's appointment.

4. The petitioner would also state that neither the first respondent nor the second respondent did not inform the petitioner about the rejection of approval. While so, on 25.01.2010 at 3.30 p.m. when the petitioner was teaching in a class room, the Secretary informed him that his application was not approved by the first respondent and asked him to go out of the school. The first respondent and the second respondent colluded with malafide intention to appoint the third respondent in the said post and that is why the first respondent has stated two different reasons in the orders refusing to approve his appointment. The grievance expressed by the petitioner is that if

the third respondent's appointment is approved, the petitioner cannot get employment and it will cause great hardship and loss to him and hence, came forward with this writ petition.

5. When the matter is taken up for consideration, the learned counsel appearing for the petitioner made a detailed submission reiterating the averments made in the writ petition and submitted that without serving the order of rejection of approval, all of a sudden the petitioner was directed to go out of the school, after serving for nearly 14 months and he has also not been paid with any salary.

6. Mr.R.Rajeswaran, learned Special Government Pleader appearing for the first respondent has invited the attention of this Court to the counter affidavit of the first respondent wherein it has been stated that selection of the petitioner for the post of Tamil Teacher has been done wrongly among graduates instead of general category of the school committee and the appointment of the petitioner for the said post was not recognized by the first respondent and hence, the first respondent is in no way liable for any action taken by the School Committee.

7.Mr.V.R.Rajasekaran, learned counsel appearing for the second respondent has invited the attention of this Court to the counter affidavit of the second respondent wherein it has been stated that all selection and appointments are made by the management of Private Aided Schools subject to the approval of the competent authority, but for the revision of roster with effect from 15.09.2009, the appointment of the petitioner would have been approved and the selection and appointment of the petitioner herein as Tamil Pandit has not been approved due to the revised roster introduced by the Government.

8. This Court has considered the rival submissions and also perused the entire materials available on record.

9. A perusal of the materials would disclose that the petitioner's appointment itself is subject to the approval of the first respondent and only on the said condition, he was appointed. While that being so, the petitioner cannot contend that without serving the order of rejection of approval or without informing him either by the first respondent or the second respondent, the petitioner was asked to go out of the school and in his place,

the third respondent was appointed on 22.10.2009. It is pertinent to note that the petitioner has filed this Writ Petition only on 29.03.2010 and further he has not challenged the appointment of the third respondent. Considering all these aspects, I am of the opinion that the impugned order does not warrant interference.

10. In the result, this Writ Petition is dismissed. No costs.

27.09.2016

Index : Yes / No
Internet : Yes / No
jvm

To

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R.SUBBIAH, J.

jvm

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