



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2016

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition (MD) No.10818 of 2015

and

M.P.(MD)Nos.1 to 3 of 2015

P.BRIDA RANI

..Petitioner

Vs.

1. THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, CHENNAI-6.
2. THE DIRECTOR OF ELEMENTARY EDUCATION,
COLLEGE ROAD, CHENNAI-6.
3. THE CHIEF EDUCATIONAL OFFICER,
KANYAKUMARI DISTRICT, KANYAKUMARI.
4. THE DISTRICT EDUCATIONAL OFFICER,
KANYAKUMARI DISTRICT, KANYAKUMARI.
5. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
NAGERCOIL, KANYAKUMARI DISTRICT.
6. THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
RAJAKAMANGALAM RANGE, ERUMBUKADU POST,
KANYAKUMARI DISTRICT -629 004.
7. THE CORRESPONDENT,
ST. JOSEPH S HIGHER SECONDARY SCHOOL,
KEEZHA ASARIPALLAM, ASARIPALLAM POST,
KANYAKUMARI DISTRICT - 629 201
8. THE MANAGER OF RC SCHOOLS/
THE BISHOP, KOTTAR RC DIOCESE,
NAGERCOIL, KANYAKUMARI DISTRICT.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondents to absorb the petitioner in the vacancy of the BT Assistant Tamil/Tamil Pandit or any next available vacancy in the seventh respondent school.

For petitioner ...Mr.G.Prabhu Rajadurai

For R1 to R6 ...Mr.V.Muruganantham

Additional Government Pleader

For R7 & R8 ...Mr.Isaac Mohanlal

O R D E R

The writ petition has been filed for issuance of writ of Mandamus directing the Respondents to absorb the petitioner in the vacancy of the BT Assistant/Tamil Pandit or any next available vacancy in the seventh respondent school.



2.The case is about deployment of teachers in private aided school. The petitioner was appointed as a Secondary Grade Teacher on 07.06.2000 in St. Mary's Primary School at Keezha Asaripallam. The said school was run by the 8th respondent diocese. Due to fall in the strength of the student, the school was closed in the month of May 2012. Therefore, the petitioner along with another teacher have to be deployed to any other Aided School.

3.The respondents 1 to 6, who are the Educational authorities, directed the petitioner to join in any one of the school, where there are vacancies. But according to her, the schools were refused to absorb her on the ground that it was open to the petitioner to join in any one of the schools run by the eighth respondent, where from she was thrown out.

4.Though it is the case of the petitioner that the Educational Authorities had not taken any action on that, there is no documents filed by the petitioner to show that she was refused entry or admission as a teacher in those schools. In fact, the writ petition in W.P.23067 of 2013 was filed by the petitioner before the Principal Bench for a Mandamus directing the respondent to absorb her in any one of the schools, is still pending.

5.Though it is stated by the petitioner that she could have been accommodated in any one of the schools run by the 8th respondent Management, the affidavit of the petitioner shows that she wants to continue in the school, from where she was deployed. The attitude of the petitioner also is very clear that she wanted to work only in the schools managed by the 8th respondent and not in any other school viz., Government School.

6. In the above circumstances, the petitioner has filed the above writ petition for Mandamus directing the respondents to absorb her in the vacancy of the B.T.Assistant in Tamil or in any available vacancy in the 7th respondent School.

7.The respondents 1 to 6, who are the Educational Authorities have filed their counter affidavit, sworn by the fifth respondent. It is specifically stated in the counter affidavit that the petitioner was originally appointed as Secondary Grade Teacher in St. Mary's Primary School at Keezha Asaripallam, on 07.06.2013, which was approved by the authorities. Thereafter, she was promoted as Primary School Head Mistress on 01.08.2005 and the same was also approved by the order of the third respondent on 30.01.2006 and because of the staff strength in the school, the said school was closed as an automatic process under the Tamil Nadu Recognized Private Schools Regulation Act. The Educational Authorities have further stated that immediate steps were taken to re-deploy the petitioner to the following Schools:-

Sl. No.	Proceedings of the DEEO Kanyakumari	Name of the School in which the writ petitioner was transferred
1.	5415/A3/2010 dated 27.10.2013	On Deputation to St.Mary Middle School, Pozhikarai, Salary will be paid from DEEO Claim. But not joined.
2.	5415/A3/2010 dated 30.05.2014	Nagercoil Range, Puducherry, St.Luthern Primary School (Deployed with post) But not joined.

3.	5415/A3/2010 dated 18.06.2014	Rajakkamangalam Range, St.Michael Aided Primary School, Asaripallam, Deployed with post. But not joined.
4.	5415/A3/2010 dated 19.08.2014	Munchirai Range, Neerodithurai, St.Nicholas Aided School. But not joined.
5.	5415/A3/2010 dated 22.12.2014	Karungal Range, Kattukadai Lutheran Aided School. But not joined.

8. Even though opportunities were given to the petitioner, she did not take them up. It is the contention of the respondent that the petitioner on her own folly had not utilized the opportunities. Had she acceded any of those opportunities, she could have had, even the pay protection.

9. The 7th and 8th respondents also had filed their counter affidavit admitting the factual details mentioned in the affidavit upto the closing of the School. The teachers who were discharged from the School in April 2012 to join service in the other schools, have taken up their choice in those schools that were available. So far as the petitioner is concerned, it is stated that she is given an opportunity by the fifth respondent to accommodate herself in any one of the schools under the 8th respondent. However, the petitioner and another teacher declined to give their options of their schools for deployment. Thereafter, the petitioner has filed W.P.(MD)No.30226 of 2014 before the Principal Seat, which is also pending and now she has filed this writ petition seeking an order to appoint her as Tamil Pandit in any of the vacancy in the respondent school.

10. The 7th and 8th respondents further contended that the claim of the petitioner cannot be considered, as any appointment for absorption in the minority Educational Institutions is not automatic, or cannot be claimed as a matter of right. The petitioner had deliberately not taken up the next opportunity that was offered to her, with an ulterior motive. Therefore, it is contended by the learned counsel for the 7th and 8th respondents that though the case of the petitioner has to be considered sympathetically, her attitude cannot be condoned.

11. Heard the learned counsel appearing for the petitioner; the learned Additional Government Pleader appearing for the respondents 1 to 6 and the learned counsel appearing for the respondents 7 and 8.

12. As stated in the counter affidavit, the 7th and 8th respondents are neither willing nor in a position to accommodate the deployed teacher. It is the admitted case of the petitioner that after 2012, though there were various opportunities, she had not availed any of them to have benefit. As stated in the counter affidavit of the fifth respondent, the petitioner was offered transfer to five of the schools by various proceedings by the fifth respondent. Even though periodical opportunities were given to the petitioner to take up the job, deliberately she was avoiding the same.



13. Be that as it may, as the petitioner is now out of job and not drawing any salary, the learned Additional Government Pleader appearing for the respondents 1 to 6, submitted that the petitioner can be accommodated in any of the **(*)Five** Schools mentioned in paragraph No.7 of the counter affidavit, subject to the availability of the vacancy.

14. The learned counsel for the petitioner also is agreeable for the same, but would only request that the school in Asaripallam viz., St. **(*)Micheal** Primary School may be given as a first choice. Whichever may be the school the petitioner wants to take up, it is only subject to the availability of the vacancy. As the petitioner is also willing to join in any of the **(*)Five** Schools, the **(*)third and fifth respondents are** directed to verify the availability of the post in the above schools and permit the petitioner to join in the school without delay.

15. With the above direction, without going into the merits of the case, the writ petition is disposed of. Such, exercise by the **(*)third and fifth respondents** shall be completed within a period of six weeks from the date of receipt of a copy of this order. No order as to costs. Consequently, connected Writ Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CO) I/C

**(*)Corrected as per Court dated 29.03.2016
in WP(MD)No.10815/2015.**

Sd/

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar(CS)

To

To be substituted order already despatched on 10.03.2016.

1. THE DIRECTOR OF SCHOOL EDUCATION, COLLEGE ROAD, CHENNAI-6.
2. THE DIRECTOR OF ELEMENTARY EDUCATION, COLLEGE ROAD, CHENNAI-6.
3. THE CHIEF EDUCATIONAL OFFICER, KANYAKUMARI DISTRICT, KANYAKUMARI.
4. THE DISTRICT EDUCATIONAL OFFICER, KANYAKUMARI DISTRICT, KANYAKUMARI.
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NAGERCOIL, KANYAKUMARI DISTRICT.
6. THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
RAJAKAMANGALAM RANGE, ERUMBUKADU POST,
KANYAKUMARI DISTRICT -629 004.

+1cc to Mr.G.Prabhu Rajadurai, Advocate in SR.17493

+1cc to Mr.Issaac Mohanlal, Advocate in SR.17633

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