



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P(MD)Nos.12972 and 16393 of 2014

and

M.P(MD)No.1 of 2014 and WMP(MD)No.16301 of 2016

in

MP(MD)Nos 1 to 3 of 2014 and WMP(MD)No.16299 of 2016

in

WP(MD)No.16393 of 2014

W.P(MD)No.12972 of 2014

S.Rathika

.. Petitioner

vs.

1.The District Collector,
Theni, Theni District.

2.The District Elementary Educational
Officer, Theni, Theni District.

3.The Assistant Elementary Educational
Officer, Bodinaickanur, Theni District.

4.The Commissioner,
Bodinaickanaur Municipality,
Bodinaickanur, Theni District.

5.The Sub Registrar,
Bodinaicknanur,
Theni District.

6.K.Rajaram

7.A.S.Mohanraj

(As per order dated 14.12.2016 made in
WMP(MD)No.2789 of 2016 R7 has been
impleaded)

... Respondents

PRAYER : 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 impugned proceedings of the second respondent in Na.Ka.No.2528/A5/2013



dated 18.06.2014 and quash the same directing the second respondent D.E.E.O., to take action against the 6th respondent forthwith on the petitioner's registered representation dated 21.04.2014.

(Prayer was amended vide Court order dated 30.11.2016 in WMP (MD) No.16300/2016)

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel for
Mr.H.Thayumanaswamy

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader
for R1 to R3, R5

Mr.R.Suriyanarayanan for R6
Mr.P.Muthuvijayapandian for R7
No appearance for R4

W.P(MD)No.16393 of 2014

1.A.S.Natarajan (died)

2.N.Vasu

3.B.Amutha

(Petitioners 2 and 3 are substituted of the
deceased first petitioner vide court order
dated 20.10.2016 made in W.M.P(MD)No.8384/16)

.. Petitioner

vs.

1.The District Collector,
Theni, Theni District.

2.The District Elementary Educational
Officer, Theni, Theni District.

3.The Assistant Elementary Educational
Officer, Bodinaickanur, Theni District.

4.The Sub Registrar,
Bodinaicknanur,
Theni District.

5.K.Rajaram

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorari and Mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.No.2528/A5/2013 dated 10.04.2014



and quash the same and consequential impugned proceedings of the 2nd respondent in Na.Ka.No.2528/A5/2014 dated 18.06.2014 and quash the same.

(Prayer was amended vide Court order dated 30.11.2016 in WMP(MD)No.16298 of 2016)

WEB COPY

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel for
Mr.H.Thayumanaswamy

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader
for R1 to R4
Mr.R.Suriyanarayanan for R5

COMMOR ORDER

Both the writ petitions are filed by two different writ petitioners for the same relief and on the same set of cause of action.

2.The writ petitioners are aggrieved against the appointment of one K.Rajaram, who was arrayed as 5th respondent in W.P(MD) No.16393 of 2014 and the 6th respondent in W.P(MD)No.12972 of 2014 as the Secretary of Pangajam Middle School at Bodinaickanur.

3.Heard Mr.Isaac Mohanlal, learned Senior Counsel appearing for the writ petitioners, Mr.R.Suriyanarayanan, learned counsel appearing for the contenting respondent/K.Rajaram, Mr.P.Muthuvijayapandian, learned counsel appearing for the impleaded respondent and Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader appearing for the official respondents.

4.Though both sides have raised so many issues and contentions for and against each other also by referring to the pendency of other civil suits filed by the respective parties, this Court, at this stage, is not inclined to go into those allegations and counter allegations in detail and to give any finding on those issues, as it would suffice, if these writ petitions are disposed of by remitting the matter to the District Elementary Educational Officer, Theni, for passing a fresh order on the request for approval of Secretaryship of the said Rajaram, in view of the following discussions and findings.

5.It is seen that by a proceedings, dated 15.10.2009, the Secretaryship of the said K.Rajaram was approved by the District Elementary Educational Officer, Theni. However, such appointment was subsequently withheld temporarily by a proceedings, dated 24.10.2013, by the very same official, based on certain allegations against the said K.Rajaram, including the alienation of the school property without obtaining permission from the department. The said order was challenged by the said



K.Rajaram before this Court in W.P(MD)No.19376 of 2013 mainly by contending that there was a violation of principles of natural justice. The said writ petition was allowed by this Court on 23.01.2014 only on the reason that the said order was made in violation of principles of natural justice. However, this Court granted liberty to the official respondents to initiate fresh action against the said K.Rajaram. Consequent upon such order, the District Elementary Educational Officer, Theni, through his proceedings, dated 10.04.2014, set aside the order, dated 24.10.2013 as well as consequential proceedings, dated 22.11.2013. He also invited an explanation to be furnished within 15 days from the date of such proceedings. Consequently, the District Elementary Educational Officer, Theni, through his proceedings, dated 18.06.2014, approved the Secretaryship of the said K.Rajaram once again by indicating that the explanation furnished by him was accepted by considering the interest of the students as well as teachers of the said School. Now, the said order of approval is under challenge before this Court.

6.The learned Senior Counsel appearing for the petitioners submitted that when serious allegations are made against the said K.Rajaram, the approval granted by the District Elementary Educational Officer, Theni, cannot be sustained, as he has not gone into the merits of the allegations made against the said person.

7.On the other hand, the learned counsel appearing for the contesting respondent/K.Rajaram, submitted that the property was sold only by taking note of the interest of the institution and therefore, no motive can be attributed against him. At this stage, this Court is not inclined to go into the merits and contentions raised by the respective parties, as it is for the District Elementary Educational Officer, to consider and decide and pass a speaking order.

8.Perusal of the impugned order, dated 18.06.2014, would only indicate that the said official has not applied his mind and passed a speaking order, except by saying in one line that he is accepting the explanation of the said K.Rajaram, by considering the interest of the students and the teachers. The said official has not given any finding resulting out of the allegation and the explanation. Needless to say that when this Court has remitted the matter back on earlier occasion to the said official to proceed afresh, he should have been all the more careful in deciding the matter by passing a reasoned order. Unfortunately, it has not been done in this case. Therefore, without expressing any view on the rival contention of the parties, this Court is inclined to set aside the impugned order in these writ petitions and remitt the matter back to the District Elementary Educational Officer, Theni, for passing fresh orders on merits and in accordance with law, after hearing both parties and also after



considering their respective contentions. Such exercise shall be done by the said official, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(RTI)

WEB COPY

/True Copy/

Sub Assistant Registrar.

To,

1.The District Collector,
Theni, Theni District.

2.The District Elementary Educational
Officer, Theni, Theni District.

3.The Assistant Elementary Educational
Officer, Bodinaickanur, Theni District.

4.The Commissioner,
Bodinaickanaur Municipality,
Bodinaickanur, Theni District.

5.The Sub Registrar,
Bodinaicknanur,
Theni District.

+2CC to M/S.H.Thayumanaswamy,Advocate, SR.No. 80917, 80918
+1CC to the Special Government Pleader, SR.No. 80872

W.P(MD)Nos.12972 and 16393 of 2014
and
M.P(MD)No.1 of 2014 and WMP(MD)No.16301 of 2016
in
MP(MD)Nos 1 to 3 of 2014 and WMP(MD)No.16299 of 2016
in
WP(MD)No.16393 of 2014

14.12.2016

skn
AM/SS3/SAR-1/02.01.2017/5P/9C