



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition (MD) No.13234 of 2015

and

M.P(MD)No.1 of 2015

and

W.M.P(MD)No.10846 of 2016

G.Jeyalakshmi

...

Petitioner

Vs.

1.The Director of School Education (Elementary)
College Road,
Chennai 6.

2.The District Elementary Educational Officer,
Virudhunagar.

3.The Assistant Elementary Educational Officer,
Rajapalayam, Virudhunagar District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records connected with the impugned order passed by the 2nd respondent in Na.Ka.No. 6211/A2/2014 dated 22.07.2015 deploying the petitioner with post from the school namely Murugan Primary School Punalveli Rajapalayam Virudhunagar District and quash the same.

For Petitioner

: Mr.K.K.Kannan

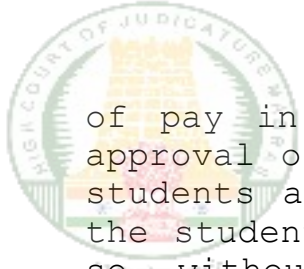
For Respondents

: Mr.V.R.Shanmuganathan,
Special Government Pleader.

ORDER

This writ petition has been filed by one G.Jeyalakshmi, challenging the impugned order passed by the District Elementary Educational Officer, Virudhunagar, transferring her in the post of Secondary Grade Teacher from Murugan Primary School, Punalveli, Rajapalayam Taluk, Virudhunagar District to Perunthalaivar Kamarajar Primary School, Meenakshipuram, on the ground that the said Murugan Primary School at Punalveli has got surplus teacher in view of the student-teacher ratio fixed on 05.03.2015.

2.According to the petitioner, she was appointed as Secondary Grade Teacher in Murugan Primary School on 12.01.2006 and the District Elementary Educational Officer, Virudhunagar, the second respondent herein, approved her appointment on 09.03.2006. Subsequently, she was also appointed in the time scale



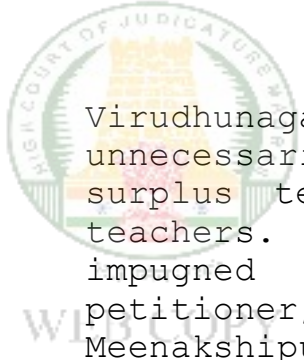
of pay in the same place with effect from 01.06.2006 with the approval of the second respondent on 31.10.2006. As on today, 120 students are studying from Standards-I to V, and the strength of the students would get increased in the next Academic Year. While so, without anticipating the scenario that students' strength in the present school is going to be increased, the second respondent has erroneously passed the impugned order, directing deployment of the petitioner from Murugan Primary School to Perunthalaivar Kamarajar Primary School, Meenakshipuram. The said order being totally unwarranted as no notice whatsoever has been given to the petitioner, the impugned order is liable to be set aside.

3.It is also the contention of the petitioner that the impugned order passed by the second respondent is superseded as per the proceedings of the Director of School Education (Elementary), Chennai, the first respondent herein, dated 21.10.2012.

4.When the matter came up for admission on 29.07.2015, this Court granted an interim order of stay. W.M.P(MD)No.10846 of 2016 has been filed to vacate the above said interim order.

5.Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents would submit that Section 26 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 gives enormous powers to the respondents to find out whether a particular school has got sufficient or surplus teacher having regard to the strength of the pupils. According to him, proceedings are issued only in accordance with the norms fixed in the Grant-in-Aid Code of the Tamil Nadu Education Department as per Rules, regulation or order, as may be made or issued by the Government or the Director of School Education, from time to time, for appointment/deployment of teachers or others in any private school. He would further submit that the petitioner has wrongly come to this Court without even challenging the original order, dated 05.03.2015, fixing the strength of the students studying in Murugan Primary School, Punalveli. After applying the rules and regulations, the strength of the ratio of the students-teachers was fixed on 05.03.2015 and that being so, therefore, the petitioner should have challenged the said order, dated 05.03.2015, and not the consequential impugned order passed by the second respondent dated 22.07.2015 and hence, the writ petition, challenging only the consequential order, dated 22.07.2015, is not legally sustainable. Further, the reasons for transferring the petitioner to Perunthalaivar Kamarajar Primary School, Meenakshipuram, have been clearly mentioned in the previous order dated 05.03.2015. According to him, since the petitioner has already accepted the original order, dated 05.03.2015, fixing the students-teacher ratio, now she cannot challenge the impugned order.

6.As rightly pointed out by the learned Special Government Pleader, since the authorities found that, for the three consecutive years namely, 2011, 2012 and 2013, 37 surplus Secondary Grade Teachers were working at the aided schools in



Virudhunagar District and that, as a result, the Government unnecessarily spent a huge amount of Rs.3,45,18,794/-, those surplus teachers were transferred to the schools in need of teachers. Therefore, there is no error or infirmity in the impugned order transferring the surplus teacher viz., the petitioner, to Perunthalaivar Kamarajar Primary School, Meenakshipuram. Secondly, as mentioned above, the petitioner has failed to challenge the original order, dated 05.03.2015, based on which the consequential order, viz., the present impugned order, came to be passed.

7.The writ petition is, therefore, dismissed. No costs. Consequently, M.P(MD)No.1 of 2015 and W.M.P(MD)No.10846 of 2016 are closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Director of School Education (Elementary)
College Road, Chennai 6.

2.The District Elementary Educational Officer,
Virudhunagar.

3.The Assistant Elementary Educational Officer,
Rajapalayam, Virudhunagar District.

+1 cc to M/s.K.K.Kannan, Advocate in SR.No.43596

sms

CSL/SKS-RR/07.09.2016: 3P/5C

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