



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.12.2016

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MRS. JUSTICE J. NISHA BANU

W.A. (MD) No. 1149 of 2016
and
C.M.P. (MD) No. 7242 of 2016

S. Jayasreekumar .. Appellant Third party

Vs.

1. B. Saraswathi Amma,
Manager & Correspondent,
Aided Higher Secondary School,
Arumanai, Arumanai Post,
Kanyakumari District. ... 1st respondent / Writ Petitioner
2. The Chief Educational Officer,
Office of the Chief Educational Officer,
Nagercoil,
Kanyakumari District.
3. The District Educational Officer,
Office of the District Educational Officer,
Kuzhithurai,
Kanyakumari District. .. Respondents 2 & 3/
Respondents 1 & 2

Writ Appeal has been filed under Clause 15 of the Letters Patent, against the order dated 16.06.2016, made in W.P. (MD) No. 10670 of 2016 by a learned Single Judge of this Court.

Prayer in WP (MD) No. 10670/ 2016 :

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 04.06.2016 seeking to approve the petitioner as Correspondent in the light of the revocation deed dated 20.05.2016 within the period that may be stipulated by this Honourable Court.



For appellant

: Mr.Veerakathiravan,
Senior Counsel
for Mr.C.Jegannathan

For 1st respondent

: Mr.Ajmal Khan,
Senior Counsel
for M/s.Ajmal Associates

For respondents 2 & 3

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

JUDGMENT

(Judgment of the Court was delivered by **R.SUBBIAH, J.**)

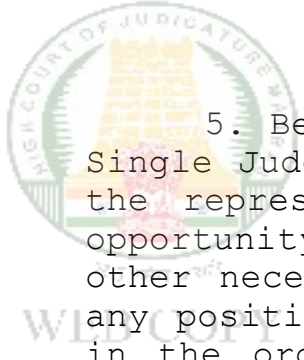
This writ appeal has been filed by a third party challenging the order passed by a learned Single Judge of this Court in W.P.(MD).No.10670 of 2016.

2.The first respondent herein has filed a writ petition with a prayer to direct the 2nd and 3rd respondents herein to consider her representation dated 04.06.2016, seeking to approve her name as Correspondent in the light of revocation deed dated 20.05.2016 within a stipulated period. After considering the submissions of the learned counsel for the first respondent and the learned Additional Government Pleader appearing for the respondents 2 and 3, the learned Single Judge of this Court has directed the 3rd respondent herein / District Educational Officer, Kuzhithurai, Kanyakumari District to dispose of the representation of the first respondent, after affording an opportunity to the first respondent as well as the other necessary parties and also by adhering to the principles of natural justice. Now aggrieved over the same, the appellant, who is a third party, has filed this appeal.

3. It is the contention of the learned counsel appearing for the appellant that since a civil suit is pending in O.S.No.126 of 2016 on the file of the District Mufi Court, Kuzhithurai, the claim made by the first respondent in her representation dated 04.06.2016 cannot be considered by the third respondent herein. More over, having filed a writ petition in W.P.(MD).No.14303 of 2015 challenging the order passed by the third respondent dated 07.08.2015 approving the appointment of the appellant as Correspondent, the first respondent has no *locus standi* to ask for a prayer to consider her representation. That is the reason why, the appellant has filed writ appeal by obtaining leave of this Court. Thus, he prays to set aside the order passed by the learned Single Judge.

4.Heard the learned counsel appearing for the respondents on

the submission made by the learned counsel for the appellant.



5. Be that as it may, we are of the opinion that the learned Single Judge of this Court has given a direction only to consider the representation of the first respondent, after affording an opportunity of hearing to the first respondent as well as the other necessary parties. The learned Single Judge has not issued any positive direction. Therefore, we do not find any infirmity in the order passed by the learned Single Judge of this Court. However, considering the submission of the learned counsel for the appellant, the third respondent is directed to consider the representation of the petitioner and pass appropriate orders after affording an opportunity of personal hearing to the petitioner as well as to this appellant and the other necessary parties. It is needless to say that the third respondent herein must consider all the submissions which would be made by the appellant and other necessary parties, while considering the representation of the first respondent herein. However, it is made clear that this Court has not expressed any opinion with regard to the merits of the claim of the petitioner.

6. With the above direction, this Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Chief Educational Officer,
Office of the Chief Educational Officer,
Nagercoil, Kanyakumari District.
2. The District Educational Officer,
Office of the District Educational Officer,
Kuzhithurai, Kanyakumari District.
3. The Special Government Pleader,
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/S.C.Jeganathan , Advocate in SR.No. 82894
+1 cc to M/S.Ajmal Associates, Advocate in SR.No. 82380

Writ Appeal (MD) No.1149 of 2016
20.12.2016

gcg

CSL/SV-MMS/24.02.2017 : 3P/6C