



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2016

CORAM :

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THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) No.717 of 2016
and
C.M.P (MD) No.4578 of 2016

- 1) The District Elementary Educational Officer,
Virudhunagar District.
- 2) The Assistant Elementary Educational Officer,
Vatrayiruppu,
Virudhunagar District. ... Appellants/Respondent 1 to 2
- vs.
- 1) P.Savarimuthu Maria George ... 1st Respondent/writ petitioner
- 2) The Correspondent,
R C Primary School,
Elanthikulam,
Vatrayiruppu,
Virudhunagar District. 2nd Respondent/3rd respondent

Appeal filed under Clause 15 of Letters Patent, against the order made in W.P(MD) No.13618 of 2014 dated 27.01.2016.

Prayer in WP(MD). 13618/ 2014 :

Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Proceedings of the Impugned order in O.Mu.No.924/A1/2012 dated 27.09.13 on the file of the 1st Respondent and quash the same and further directing the 3rd Respondent to resubmit the Petitioner's proposal for approval to the 1st Respondent and consequently directing the 1st Respondent to grant approval to the appointment of Petitioner as Secondary Grade Teacher in the 3rd Respondent school with effect from 01.11.10.

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

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents : Mr.G.Prabu Rajadurai for R1

JUDGMENT

(Judgment of the Court was made by Mr.Justice S.MANIKUMAR)

Body of the order impugned, shows that by taking note of the judgment of the Hon'ble Supreme Court in Pramati Educational and Cultural Trust and others vs. Union of India and others, reported in (2014) 4 MLJ 486, order dated 03.06.2015 in M.P.No.1 of 2015 in W.P.No.14072 of 2015, and also the order of the Hon'ble Division Bench of this Court dated 14.09.2015 in W.A.No.1299 of 2015, interim direction as prayed for, has been granted. However, by oversight, instead of showing the Miscellaneous Petition (MD)No.1 of 2015 in W.P(MD)No.13618 of 2014, Registry has shown, as if, it is an order passed in W.P(MD)No.13618 of 2014. At the end of the order, the Writ Court has only said that the interim direction shall be complied with, within a period of six weeks from the date of receipt of a copy of the order. Mistake requires to be corrected. Therefore, the order dated 27.01.2016 impugned in this appeal, be read as an order made in M.P(MD)No.1 of 2015 in W.P(MD) No.13618 of 2014, dated 27.01.2016.

2.Construing that the impugned order, as an order made in M.P (MD)No.1 of 2015 in W.P(MD)No.13618 of 2014, and inasmuch as the learned counsel for the 1st respondents/writ petitioner, has consented for a similar order, be made in W.A.(MD) No.220 of 2016, dated 05.02.2016, this Court deems it fit to extract the same and dispose of the instant appeal, on the same lines:

"4.In a similar writ appeal filed by the State in the Principal Bench, a Division Bench of this Court has passed the following order in W.A.No.1299 of 2015, dated 14.09.2015.

'4.Be that as it may, the issue as to whether the provisions of the Act, will be applicable to a minority institution, is pending consideration in ***Aswinithanappan Vs. Director of Education and another - (2014) 8 SCC 272.***

5.In view of the above, without going into the merits of the case as to whether a teacher appointed in a minority school is required to have TET qualification, as the same is the subject matter of the Writ petition, we are of the considered view that interest justice would sub-serve, if the appointment of the first respondent is protected, without giving any direction to the State Government to grant temporary approval.



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Government Pleader (Education) appearing for the appellants fairly submits that the first respondent shall not be terminated during the pendency of the said writ petition being W.P.No.14072 of 2015.

7. Accordingly, we direct that the first respondent shall be given her salary in the course of her employment and no steps to remove her from service shall be taken till the disposal of the writ petition. However, it is made clear that this order is subject to the final outcome of the pending writ petition. It is further made clear that the first respondent shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties, therein.

8. This intra-Court appeal is disposed of accordingly. No costs. Connected Miscellaneous Petition is closed. "

3. By consent, the writ appeals is disposed of, on the same lines as ordered in W.A.(MD) No.220 of 2016 dated 05.02.2016. Having consented, appellants are directed to comply with this order. No costs. Consequently, C.M.P(MD)No.4578 of 2016 is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1) The District Elementary Educational Officer,
Virudhunagar District.
- 2) The Assistant Elementary Educational Officer,
Vatrayiruppu,
Virudhunagar District.

SDR/DB/SAR I/06.06.2016/3P/3C

W.A(MD)No.717 of 2016
21.04.2016