



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD) .No.11777 of 2016

and

W.M.P. (MD) .Nos.9037 and 9038 of 2016

P.Kuthala Eswari

... Petitioner

Vs

1.The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

2.The Secretary,
ICI Primary School,
Elanji, Tenkasi Taluk,
Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned communication issued by the first respondent to the petitioner in Na.Ka.No.4067/A2/2015 dated 09.06.2016 and to the second respondent in Na.Ka.No.4067/a2/2015 dated 09.06.2016 quash the both as illegal and consequently directing the second respondent herein to allow/permit the petitioner to discharge her duties as Secondary Grade Teacher in the second respondent school.

For petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.T.S.Mohammed Mohideen

ORDER

Ms.Kuthala Eswari, while serving as Secondary Grade Teacher suffered a departmental proceedings to face the charge memo, dated 09.07.2015, issued by the second respondent, containing seven charges. An enquiry was held against the petitioner and submitted a Report holding that out of seven charges, six charges were proved. Later on, the School Committee, considering the explanation offered by the petitioner, finally, <https://hcservices.ecburs.gov.in/hcservices/> reached a conclusion that the petitioner is no longer entitled to continue as a Teacher and on that basis, an order of removal from service was passed against the petitioner. Aggrieved by the



same, the petitioner preferred an appeal on 22.02.2016 before the first respondent, the District Elementary Educational Officer, Tirunelveli. Finding no improvement in the appeal filed by the petitioner, a Writ Petition in W.P.(MD).No.7425 of 2016 was filed by the petitioner to dispose of the appeal, dated 22.02.2016.

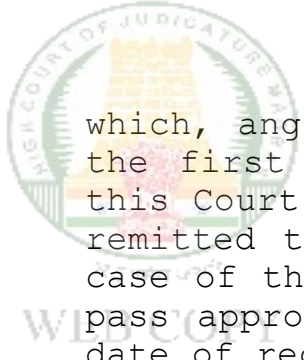
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2. This Court, considering the facts and circumstances of the case, disposed of the said Writ Petition, on 18.04.2016. Pursuant thereto, the impugned order has been passed again remanding the matter back to the second respondent school.

3. Aggrieved by the same, the petitioner has again visited this Court on the ground that when there was clear and categorical direction given by this Court to consider the case of the statutory appeal filed under Section 23 of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 (for short 'the Act') without assigning any reason for remand, the case of the petitioner has been sent back to the second respondent. Therefore, the same is liable to be set aside. He further contended that the first respondent was requested to consider the 'order of dismissal' on the ground that the second respondent without getting prior permission from the authority concerned passed the order of suspension and also dismissed the petitioner from service. To sum up, without even considering the afore-said aspect and legal position, the first respondent has wrongly remanded the matter.

4. It is at this stage learned Counsel for the first respondent requesting this Court to consider one aspect regarding that when there was a direction to the first respondent to consider the case of the petitioner on merits and also as per Section 23 of the Act, the first respondent mistakenly remanded the matter back to the second respondent just to reconsider the case of the petitioner, however, no reasons whatsoever was given to the effect that from which angle, the matter has to be reconsidered. Therefore, he has asked for a direction to the first respondent to reconsider the matter in all aspects.

5. On perusal of Section 23 of the Tamil Nadu Recognized Private School Regulation Act, it shows that if any teacher or other person employed in any private school is dismissed or removed from service, a duty is cast upon to the appellate authority to pass a speaking order. But, in the present case, a perusal of the impugned order of remand directing the second respondent to consider the case of the petitioner, is bereft of any finding or any conclusion. Even if the matter is allowed to go back to the second respondent, it may not be possible to have a relook as there is no reason given by the first respondent. <https://hccasescour.gov.in/hccases/cases/> Therefore, the first respondent although he is entitled to send the matter back to the second respondent, but, he has to communicate the same, with valid reasons, more particularly, from



which, angle the matter has to be reconsidered. Without doing so, the first respondent has passed the impugned order. Therefore, this Court sets aside the order impugned in this Writ Petition and remitted the matter back to the first respondent to consider the case of the petitioner, on merits and in accordance with law, and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS)

To
The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

+1cc to Mr.G.Thalaimutharasu, Advocate, Sr.No.34961

+1cc to the Special Government Pleader, Sr.No.35161

ssm

JM/SK-SKN/20.07.2016/3P-4C

W.P (MD) .No.11777 of 2016
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