



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.11.2016

C O R A M

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THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.22507 of 2016

D.Julius Paul Pon Selvan

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by it's Principal Secretary,
School Education Department,
Fort St. George, Chjennai - 600 009.
- 2.The Joint Director of School Education (Higher Secondary),
Office of the Joint Director of School Education,
College Road, Chennai - 600 006.
- 3.The District Educational Officer,
O/o the District Educational Office,
Virudhunagar, Virudhunagar District.
- 4.The Correspondent,
S.C.M.S. Girls Higher Secondry School,
Sachiyapuram, Sivakasi West,
Virudhunagar District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the 2nd respondent to consider the representation dated 06.04.2016 preferred by the petitioner through the 4th respondent seeking for approval of the petitioners appointment w.e.f. 08.03.2006 within the period that may be stipulated by this Hon'ble Court.

For Petitioner
For Respondents

... Mr.C.Venkatesh Kumar
... Mr.A.Muthukaruppan

O R D E R

This is a writ of Mandamus seeking direction to the second respondent to consider the representation of the petitioner, dated 06.04.2016, through the 4th respondent, seeking for approval of the petitioner's appointment w.e.f. 08.03.2006.



2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 to 3.

3. The petitioner was appointed as Office Assistant on 08.03.2006. The school is a private minority school and it is governed by the Tamil Nadu Private Schools Regulation Act and Rules made thereunder. As the appointment was made in the sanctioned post, no prior permission is required. The proposal was submitted by the School asking for approval of the appointment, to the third respondent. The proposal was not considered by the third respondent stating that prior permission is required to fill up the vacancy. Subsequently, the petitioner's appointment was approved by proceedings dated 04.01.2010. However, it was given effect only from 04.01.2010 and not from the date of petitioner's initial appointment i.e. on 08.03.2006.

4. In the meantime, the petitioner was also given promotion as record clerk. Therefore, seeking approval of appointment with effect from 08.03.2006, representation has been submitted. As the representation was not considered, this writ petition has been filed.

5. According to the settled legal position, prior permission of the appointment is not required in respect of minority educational institutions. In the case of **Pramati Educational and Cultural Trust vs. Union of India, 2014 (4) MLJ 486**, the Hon'ble Supreme Court held that under Article 31 of the Constitution of India, all minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice and therefore, those institutions have a special constitutional right to establish and administer educational schools of their choice.

6. The Hon'ble Division Bench of this Court in the case of W.A.(MD) No.213 and 572 of 2016, based on the judgment in Pramati's case, held that G.O.181 dated 15.11.2011, which was issued prior to the directions of NCET, cannot be made applicable to minority institutions. The Hon'ble Division Bench of this Court in the said case has only suggested that the minority institution may consider conducting a refresher course and also some interactive sessions in order to ensure the quality of teachers. Therefore, it is clear that the impugned order passed is liable to be set aside in view of the legal position enunciated in W.A.(MD) No.213 and 572 of 2016.

7. Accordingly, the respondents are directed to consider the representation of the petitioner dated 06.04.2016, in the light of the legal position indicated above and to pass further orders, within a period of four weeks from the date of receipt of a copy of this order.



8.The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (RTI)

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/True Copy/

Sub Assistant Registrar

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To

1.The Principal Secretary,
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai - 600 009.

2.The Joint Director of School Education (Higher Secondary),
Office of the Joint Director of School Education,
College Road, Chennai - 600 006.

3.The District Educational Officer,
O/o the District Educational Office,
Virudhunagar, Virudhunagar District.

4.The Correspondent
S.C.M.S. Girls Higher Secondary School,
Sachiyapuram, Sivakasi West,
Virudhunagar District.

+2CC to M/S.Ajmal Associates, Advocate Sr.No.725651, 72652

+1CC to Spl.Government Pleader Sr.No.72681

GJM/MR/9.2.17-3p-8C

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