

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.10.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11249 of 2014
and
M.P.Nos.1 & 2 of 2014

R.Benjamin

..Petitioner

vs

1.The Joint Director of Elementary
Education, (Aided Schools)
DPI Campus, Chennai - 6.

2.District Elementary Education Officer,
Vellore, Vellore District.

3.IELC Aided Elementary School,
Pudur, Vaniyambadi, Vellore District,
Represented by its Correspondent.

4.Secretary,
Education Committee,
Ambur Synod, IELC,
Ambur, Vellore District.

5.Additional Assistant Elementary Education Officer,
Nattrampalli, Vellore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 5th Respondent in his Proceedings Na.Ka.No.1203/A1/2011 dated 23.12.2013 and quash the same, and direct the Respondents to approve the appointment of the Petitioner as Secondary Grade Teacher from 20.06.2011 and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan
for M/s.C.S.Associates
For Respondents : Mr.R.Vijayakumar
AGP, for R1, R2 & R5
Mr.S.Mani, for R3 & R4

O R D E R

The relief sought for in this writ petition is to quash the order of rejection dated 23.12.2013 and for a direction to direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher from 20.06.2011 and confer all the consequential benefits.

2.The issue was considered by this Court based on the Judgment of the Hon'ble Supreme Court of India in W.P.No.31382 of 2014 dated 15.03.2016 and the following paragraphs which are extracted hereunder:

"7.Further, the third respondent School is a minority institution, therefore, the Right of Children to Free and Compulsory Education Act, 2009, cannot be applied to the case on hand in view of the ratio laid down by the Hon'ble Apex Court in Pramati Educational & Cultural Trust's case (cited supra). For better appreciation, Paragraph 47 thereof is extracted below:

"47. In the result, we hold that the Constitution (Ninety-third Amendment) Act, 2005 inserting clause(5) of Article 15 of the Constitution and the Constitution(Eighty-Sixth Amendment) Act 2002 inserting Article 21 A of the Constitution do not alter the basic structure or framework of the Constitution and are constitutionally valid. We also hold that the 2009 Act is not ultravires Article 19(1) (g) of the Constitution. We, however, hold that the 2009 Act insofar as it applies to minority schools, aided or unaided, covered under clause(1) of Article 30 of the Constitution is ultra vires the Constitution. Accordingly, Writ Petition(C) No.1081 of 2013 filed on behalf of Muslim Minority Schools Managers' Association is allowed and Writ Petition (C) Nos.416 of 2012, 152 of 2013, 60 of 2014, 95 of 2014, 106 of 2014, 128 of 2014, 144 of 2014, 145 of 2014, 160 of 2014 and 136 of 2014 filed on behalf of non-minority private unaided educational institutions are dismissed. All I.As. Stand disposed of. The parties, however, shall bear their own costs."

8.In view of the above said facts and circumstances of the case and also by following the ration laid down by the Hon'ble Apex Court as stated above, this Court gives a direction to the respondents to approve the appointment of the petitioner as Secondary Grade Teacher in the third respondent School from 20.06.2011 and confer all the consequential benefits thereof. The respondents are directed to complete the said exercise within a period of

eight weeks from the date of receipt of a copy of this order."

3.The impugned order passed by the 5th respondent in proceedings Na.Ka.No.1203/A1/2011 dated 23.12.2013 is quashed and accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

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5.Additional Assistant Elementary Education Officer,
Nattrampalli, Vellore District.

+ 1 cc M/s. C.S. Associates sr.73860

+ 1 cc to Government Pleader sr.74426

W.P.No.11249 of 2014

RR 22/11/2017