

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.12213 of 2014 and
W.M.P.No.2 of 2014

J.Anulatha

... Petitioner

Vs.

1. The principal Secretary,
Department of Education,
Government of Tamil Nadu
Fort St.George,
Chennai 600 006.
2. The Director of Elementary Education,
D.P.I.Complex, College Road,
Chennai 600 006.
3. The District Elementary Educational Officer,
D.P.I.Complex, College Road,
Chennai 600 006.
4. The Assistant Elementary Educational Officer,
Triplicane Range, Triplicane,
Chennai 600 005.
5. The Correspondent,
Chintadripet Middle School,
Chintadripet, Chennai 600 002.
6. Tmt.R.Umamaheswari,
Secondary Grade Teacher,
Chintadripet Middle School,
Chintadripet, Chennai 600 002.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in G.O.No.(ID) No.11, Pallikalvi (Thoka 2(1) Thurai) dated 24.01.2014, on the file of the first respondent, quash the same and consequently confirm and uphold the promotion of the petitioner as Headmistress, made by the fifth respondent on and from 01.10.2008, as per the proceedings of the School Committee approved by the District Elementary Educational Officer in Na.Ka.1992/AA2/2011, dated 21.11.2011.

For Petitioner : Mr.Balasubramaniam for
M/s.P.Sankaranarayanan

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader for
RR1 to 4
: Mr.R.Rajesh for R5
: Mr.M.Ravi for
M/s.K.H.Ravikumar for R6

O R D E R

Heard Mr.Balasubramaniam, learned Senior counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader, appearing for respondent Nos.1 to 4, Mr.R.Rajesh, learned counsel appearing for the fifth respondent and Mr.M.Ravi, learned counsel appearing for the sixth respondent.

2.The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in G.O.No.(ID) No.11, Pallikalvi (Thoka 2(1) Thurai) dated 24.01.2014, on the file of the first respondent, quash the same and consequently confirm and upload the promotion of the petitioner as Headmistress, made by the fifth respondent on and from 01.10.2008, as per the proceedings of the School Committee approved by the District Elementary Educational Officer in Na.Ka.1992/AA2/2011, dated 21.11.2011."

3. The case of the petitioner is as follows:

The petitioner was holding the post of the Headmistress, Chintadripet Middle School, Chintadripet, Chennai 600 002, since 01.10.2008, in respect of the vacancy which arose due to the retirement of one Mrs.K.Shanthi on 30.09.2008.

4. On the eve of retirement of Mrs.K.Shanthi, the school management -fifth respondent herein, had prepared a proposal for appointment of Headmaster/Headmistress and a list eligible candidates was shortlisted in terms of Tamil Nadu Recognized Private Schools Regulation Act, 1973, and as per the rules framed thereunder.

5. There were originally four eligible teachers who were working as a Secondary Grade Teacher/B.T.Assistant, out of that, the petitioner is one of the candidates found to be eligible. It appears that the other three teachers opted out of appointment to the post of Headmistress and the petitioner alone emerged as an eligible candidate for the appointment to the post of Headmistress and the selection of the petitioner was informed to the third respondent and thereafter he also granted an approval.

6. While matter stood thus, the sixth respondent herein had challenged the appointment of the petitioner, on the ground that the petitioner was not qualified to be appointed as Headmistress, in terms of rule 15(6) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974. The first respondent while dealing with the objection, passed an order on 24.01.2014, cancelling the approval granted to the petitioner for the appointment as Headmistress in Chintadripet Middle School and the said order is put to challenge before this Court in the present proceedings.

7. When the matter was taken up for hearing, an elaborate submission has been made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents. While making a submission, learned counsel for the petitioner would draw the attention of this Court to the provisions contained in Tamil Nadu Recognized Private Schools Regulation Act, 1973, particularly, Section 45(2) which reads as follows:

"2. No order prejudicial to any person shall be passed under Sub-section (1) unless such person has been given an opportunity of making his representations."

8. According to the learned counsel for the petitioner, no opportunity has been offered either to the fifth respondent viz., the School, or to the petitioner, before an adverse order came to be issued, although several objections and contra objections raised on behalf of the parties viz., the petitioner vis-a-vis the sixth respondent. This Court, at the present moment, is not inclined to go into the factual and legal controversies that arise between the parties. While passing the impugned order, the first respondent has obviously did not issue notice either to the fifth respondent or to the petitioner and this fact has not been disputed by the Government. That being the case, the impugned order passed by the first respondent suffered from non application of established principles of natural justice, as no opportunity has been given to the petitioner on the issue to explain his position vis-a-vis the claim of the sixth respondent.

9. In the said circumstances, the matter is remanded back to the first respondent for taking a decision on the objections raised by the sixth respondent against the appointment of the petitioner. The first respondent is directed to issue notice to both the petitioner and the respondent school and pass appropriate orders after taking the objections and submissions in terms of the relevant provisions of the Act/Rules and the Government Order issued on the subject matter.

10. The first respondent is also directed to take note of the contents of the affidavit filed in support of the writ petition and also the counter affidavit filed on behalf of the Government as well as the sixth respondent, while deciding the case. The first respondent is directed to pass an appropriate order on merits and in accordance with law as stated above, within a period of three months from the date of receipt of a copy of this order.

11. With the above direction, the writ petition stands disposed of. Till the final order is passed by the first respondent, status quo as it remains shall continue. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-VIII)

True Copy

Sub-Assistant Registrar

gsk

To

1. The principal Secretary,
Department of Education,
Government of Tamil Nadu
Fort St.George,
Chennai 600 006.
 2. The Director of Elementary Education,
D.P.I.Complex, College Road,
Chennai 600 006.
 3. The District Elementary Educational Officer,
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 4. The Assistant Elementary Educational Officer,
Triplicane Range, Triplicane,
Chennai 600 005.
 5. The Correspondent,
Chintadripet Middle School,
Chintadripet, Chennai 600 002.
- +1 CC to Govt. Pleader sr 59952
+1 CC to Mr.M. Ravi, Advocate sr 59460
+1 CC to Mr.M. Rajesh, advocate sr 59404
+1 Cc to Mr.R. Sankaranarayanan, Advocate sr 59405

W.P.No.12213 of 2014

RV(CO)

sp(22/08/2017)

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