

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.3757 of 2017
and WMP No.3809 of 2017

Nehru Primary School rep by its
Manager & Correspondent,
Melapalayam,
Palayamkottai Taluk,
Tirunelveli - 627 005 ... Petitioner

Vs

1. The Additional Chief Secretary to Government,
School Education (C2) Department,
Fort. St. George,
Chennai - 9.
2. The Director of Elementary Education,
College Road, Chennai - 6.
3. The District Elementary Education Officer,
Tirunelveli-627 001.
4. The Assistant Elementary Education Officer,
Palayamkottai Union,
Palayamkottai - 627 002. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the first respondent in G.O.Ms.No.181, School Education (C2) Department dated 15.11.2011 and quash the same, in so far as the petitioner is concerned and consequentially direct the third respondent to approve the appointment of Thiru.J.M.L. Jamal Mohammed Lebbai as Head Master in the petitioner school w.e.f. 01.09.2014 with all consequential and monetary benefits.

For Petitioner : Mr.S.N. Ravichandran

For Respondents: Mr.V. Anandamoorthy
Additional Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.V.Anandamoorthy, learned Additional Government Pleader, accepts notice on behalf of the respondents.

2. The deponent of the affidavit is the Managing cum Correspondent of the petitioner School and according to him, it is a religious minority Institution started in the year 1963 as a Primary school with an avowed object to cater the need of the people residing in and around Melapalayam. The said School got permanent recognition in the year 1969. The petitioner would aver that a vacancy arose for Primary School Headmaster on 01.01.2013, due to the retirement of the deponent of the affidavit. According to the petitioner, his son, namely Jamal Mohamed Lebbai is having all required and necessary qualification for appointment to the said post and he was also working in that capacity right from 01.09.2014. The petitioner School submitted a proposal on 04.10.2014 to the 3rd respondent seeking proposal for appointment of Jamal Mohammed Lebbai as Primary School Headmaster through 4th respondent. The said proposal was returned by the 4th respondent on 29.11.2014 stating that two Secondary Grade Teacher posts were found surplus in the academic year 2012-2013 and as such, the appointment of Jamal Mohammed Lebbai, cannot be approved. The petitioner submitted a representation to the 2nd respondent on 08.05.2015. Though it was received and acknowledged, so far no orders have been passed. Hence, he came forward to file this writ petition.

3. Mr.S.N.Ravichandran, learned counsel for the petitioner would submit that subsequent to the submission of the representation to the 2nd respondent, the petitioner School also re-submitted a proposal dated 10.02.2017 to the 4th respondent praying for approval of appointment of Jamal Mohammed Lebbai from 01.09.2014 in the light of the decision reported in 2014 (4) MLJ 486 (SC) (Paramati Educational and Cultural Trust v. Union of India and others) as well as yet another decision reported in 2016(5) CTC 639 (The Secretary to Government Vs. S.Jeyalakshmi) and prays for appropriate orders.

4. Per contra, Mr.V.Anandamoorthy, learned Additional Government Pleader would submit that in the light of the facts and circumstances, the above cited judgments relied on by the learned counsel for the petitioner, have no application to the

case, however, appropriate orders will be passed on the representation submitted by the petitioner to the 2nd respondent.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. Though the petitioner prays for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 2nd respondent to consider and dispose of the representation dated 08.05.2015 on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The 4th respondent shall also take into consideration, the re-submission of the proposal dated 10.02.2017 and take appropriate steps to give disposal to the same as expeditiously as possible. The writ petition is disposed of accordingly. no costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Chief Secretary to Government,
School Education (C2) Department,
Fort. St. George,
Chennai - 9.
2. The Director of Elementary Education,
College Road, Chennai - 6.
3. The District Elementary Education Officer,
Tirunelveli-627 001.

4. The Assistant Elementary Education Officer,
Palayamkottai Union,
Palayamkottai - 627 002.

+1cc to Mr.S.N.Ravi Chandran, Advocate Sr.9913
+1cc to the Government Pleader Sr.10214

W.P.No.3757 of 2017

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