



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

C.M.P. (MD) .No.1369 of 2017

IN

W.A. [MD] . (SR) No.5731 of 2017

P.Raja

: Petitioner

Vs.

1.K.Venkateshan,

2.The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat,
Fort St. George, Chennai-9.

3.The Director of School Education,
DPI Campus, Chennai-6.

4.The District Educational Officer,
Musiri, Trichy District.

5.The Secretary,
Swamy Viveganantha Vidyalayam
Higher Secondary School,
Vaichettipalayam-621 012,
Trichy District.

: Respondents/Respondents

Prayer in M.P(MD)No.1369 of 2017:- Petition filed under Section 151 of CPC, to grant leave to file Writ Appeal to the petitioner as against the order dated 10.01.2017 made in W.P(MD).No.450 of 2017.

Prayer in W.A(MD)SR.No.5731 of 2017:- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 10.01.2017 made in W.P(MD).No.450 of 2017, on the file of this Court.

For Petitioner

: Mr.R.Manimaran

For Respondent No.1 & 5

: Mr.B.Saravanan

For Respondent No.2,3 & 4

: Mr.V.Muruganantham,

Additional Government Pleader.



ORDER

[Order of the Court was made by T.S.SIVAGNANAM, J.]

WEB COPY

Heard Mr.R.Manimaran, learned counsel appearing for the petitioner, Mr.B.Saravanan, learned counsel appearing for the respondents 1 and 5 and Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 2, 3, and 4.

2. This application has been filed by a third party seeking Leave to file Writ Appeal against the order dated 10.01.2017 made in W.P.(MD).No.450 of 2017, which was filed by the first respondent herein.

3.The contention of the petitioner is that he is entitled to be promoted to the post of either Library Clerk or Junior Assistant in the fifth respondent school and it appears that the management gave an assurance to him that they will consider him to the post of Library Clerk and consequently, the vacancy in the post of Junior Assistant was filled up by another candidate. Subsequently, the management recruited the first respondent herein as Library Clerk by resorting to direct recruitment. The petitioner has challenged the appointment of the Junior Assistant by filing a separate Writ Petition and the same is pending. Now, the petitioner seeks Leave to file Writ Appeal against the order passed in the Writ Petition filed by the first respondent herein, seeking to set aside the order dated 15.10.2015, passed by the fourth respondent herein, rejecting the approval sought for by the management with regard to the appointment of the first respondent.

4. In our considered view, as long as the petitioner has not challenged the order of appointment of the first respondent, dated 07.01.2015, now, he cannot seek Leave to challenge the order passed in the Writ Petition filed by him, which would amount to indirectly challenging the order of appointment, which was made in the year 2015. Therefore, the petitioner has to pursue his remedy in the pending Writ Petition, wherein he has challenged the appointment to the post of Junior Assistant. Thus, the present Miscellaneous Petition seeking Leave stands dismissed. Consequently, W.A.[MD].(SR)No.5731 of 2017 is rejected. No costs.

Sd/-

ASSISTANT REGISTRAR(CS-II)

/TRUE COPY/

SUB ASSISTANT REGISTRAR



To

1.The Secretary,
Department of School Education,
State of Tamil Nadu, Secretariat,
Fort St. George, Chennai-9.

2.The Director of School Education,
DPI Campus, Chennai-6.

3.The District Educational Officer,
Musiri, Trichy District.

+1 CC TO MR.R.MANIMARAN,ADVOCATE,SR NO.53634

+1 CC TO MR.B.SARAVANAN,ADVOCATE,SR NO.53490

NB/MYR

MAS/MR:04.05.2017:3P-6C

ORDER MADE IN
M.P. (MD) .No.1369 of 2017
IN
W.A. [MD] . (SR)No.5731 of 2017
20.04.2017