



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Reserved on : 07.07.2017

Pronounced on : 20.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.1397 of 2014 against W.P.(MD)No.12113 of 2014
and
M.P.[MD]No.1 of 2014

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

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The Chief Educational officer,
Nagercoil, Kanyakumari District.

4.The District Educational Officer,
Thuckalay, Kanyakumar District.

... Appellants/Respondents

Vs.

The Manager / Correspondent
V.K.P.Higher Secondary School,
Colachel, Kanyakumari District.

... Respondent /Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 03.06.2014 in W.P.(MD)No.12113 of 2011 on the file of this Court.

Prayer in WP(MD). 12113/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records relating to the impugned proceedings issued by the 4th Respondent District Educational Officer vide O.Mu.No.4301/Aa2/2011, dated 24-08-2011 refusing approval to the appointment of B.Gnana Chella Singh as Headmaster in the Petitioner s School, Quash the same and further Direct the District Educational Officer, Thuckalay to approve forthwith the appointment of B.Gnana Chella Singh as Headmaster in the Petitioner s School w.e.f. the date of appointment viz., 01-06-2011 with salary and all attendant benefits.



For Respondent

: Mr. Isaac Mohanlal, Senior Counsel
for Mr. T. Cibi Chakraborty.

JUDGMENT

[Judgment of the Court was delivered by G.R. SWAMINATHAN, J.]

The Education Department is on appeal, questioning the order dated 03 June 2014 made in W.P.(MD) No.12113 of 2011. The said writ petition was filed by the respondent school aggrieved by the refusal of the District Educational Officer to grant approval to the appointment of B.Gnana Chella Singh as Headmaster in their school.

2.The writ petitioner is a recognized and aided private school. It is also a Malayalam Linguistic Minority educational institution. The post of Headmaster fell vacant on 01 June 2011 following the retirement of the previous incumbent Tr.P.Rajendran. The respondent's school Management appointed one B.Gnana Chella Singh to the said post of Headmaster. The said B.Gnana Chella Singh possessed B.Sc., (Zoology), B.Ed., M.A.(Political Science) and M.Ed., Degrees. He has been working as an approved B.T.Assistant in Science (Special Grade) in the said school since 04 June 1984. The writ petitioner submitted a proposal to the District Educational Officer, Thuckalay, Kanyakumari District on 27 July 2011 seeking approval of the said appointment and disbursement of grant-in-aid towards his salary. The District Educational Officer, Thuckalay, Kanyakumari District vide order dated 24 August 2011 in O.Mu.No.4301/Aa2/2011 declined to grant approval. Hence, the respondent school Management filed W.P.(MD) No.12113 of 2011.

3.The fourth respondent in the writ petition filed his counter affidavit seeking to sustain the order of rejection. According to the said authority, Tr.B.Gnana Chella Singh was working only as a B.Ed., teacher and not as a P.G.Assistant teacher. He was not in the feeder category for promotion to the post of Headmaster of a Higher Secondary School. The learned Judge by order dated 03 June 2014 allowed the writ petition and directed the fourth respondent in the writ petition to approve the appointment of Tr.B.Gnana Chella Singh with effect from 01.06.2011 and also disburse the salary and other benefits payable to him. Aggrieved by the same, the Education Department is on appeal.

4.The learned Additional Government Pleader reiterated the contention that the feeder category for the post of Higher Secondary School Headmaster is P.G.Assistant or High school Headmaster. Since the writ petitioner was neither P.G.Assistant nor High school Headmaster, he could not have been promoted as Higher Secondary School Headmaster. Reliance was placed on Rule 15(4) of the Tamil Nadu recognized Private Schools (Regulation) Rules 1974, in this regard.



5.It is admitted by the appellant that Tr.B.Gnana Chella Singh is possessing the requisite educational qualification prescribed for the post of Headmaster in a Higher Secondary school. Therefore, the only question to be decided is whether the promotion of Tr.B.Gnana Chella Singh to the said post of Headmaster is liable to be set aside for the reason that he does not hail from the feeder category laid down in Rule 15 (4)(ii)(d) of the Tamil Nadu recognized Private Schools (Regulation) Rules 1974.

6.The learned single Judge referring to catena of decisions noted that the said provision is not applicable to minority institutions. In the present case, the respondent is a linguistic minority institution. Therefore, Rule 15(4)(ii)(d) obviously does not apply to the present case. That being so, when the candidate selected by the respondent is otherwise satisfying the eligibility criteria, the same ought to have been approved. The learned Judge was right in holding that the order declining to grant approval was liable to be interfered with. The reasoning of the learned Judge is sound. We see no reason to interfere with the same. This writ appeal is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Crl side)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

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

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The District Educational Officer,Thuckalay, Kanyakumar District.

4.The District Educational Officer,
Thuckalay, Kanyakumar District.

+1cc to M/S.T.CIBI CHAKRABORTHY, Advocate SR.No.66853

+1cc to Special Government Pleader, SR.No.67101

Arul/skm

MAS/KK/SAR3:28.07.2017:3P-7C

Judgment made in
W.A.[MD].No.1397 of 2014
and
M.P.[MD]No.1 of 2014
20.07.2017