



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.689 of 2016
and
C.M.P. (MD) No.4438 of 2016
and
W.P. (MD) No.953 of 2016
and
W.M.P. (MD) No.748 of 2016

- 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 District Elementary Educational Officer
Madurai District
 - 4.The Assistant Elementary Educational Officer
Madurai West
- ... Appellants in
W.A.(MD) No.689 of 2016 &

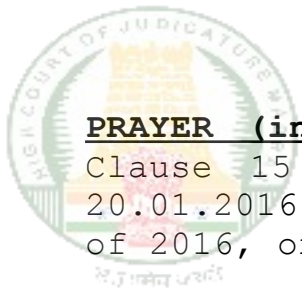
Respondents in
W.P.(MD) No.953 of 2016

-vs-

The Correspondent
Thanabal Middle School
5.Sulthan Nagar
Beebikulam Madurai
Madurai District

... Respondent in
W.A.(MD) No.689 of 2016 &

Petitioner in
W.P.(MD) No.953 of 2016



PRAYER (in W.A.(MD) No.689 of 2016) : Writ Appeal filed under Clause 15 of Letters Patent against the interim order, dated 20.01.2016, made in W.M.P.(MD) No.748 of 2016 in W.P.(MD) No.953 of 2016, on the file of this Court.

Prayer in WMP(MD). 748/ 2016 :

To pass suitable Ad Interim order directing the 3rd Respondent District Elementary Educational officer to approve the appointment of V.Muralidharan as Secondary Grade Teacher in the petitioners School w.e.f the dated of his appointment on 03.12.2012 with all attendant benefits including the arrears of salary and allowance within a reasonable time as may be prescribed by this Honble Court, pending disposal of the Writ Petition.

PRAYER (in W.P.(MD) No.953 of 2016) : Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the third respondent District Elementary Educational Officer to approve forthwith the appointment of Murlidharan as Secondary Grade Teacher in the petitioner's School w.e.f., the date of his appointment on 03.12.2012 with all attendant benefits including the arrears of salary and allowance.

For Appellants : Mr.V.Muruganantham
(in W.A.(MD) No.689 of 2016) Addl. Govt. Pleader
& For Respondents
(in W.P.(MD) No.953 of 2016)

For Respondent : Mr.K.Samidurai
(in W.A.(MD) No.689 of 2016)
& For Petitioner
(in W.P.(MD) No.953 of 2016)

J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

The writ appeal, in W.A.(MD) No.689 of 2016, is directed against the interim order, dated 20.01.2016, made in W.M.P.(MD) No.748 of 2016 in W.P.(MD) No.953 of 2016, by which an interim direction was issued to the appellants / respondents to grant temporary approval and pay salary to one V.Muralidharan as prayed for.

2. It is submitted by the learned counsel on either side that the issue involved in the writ petition, in W.P.(MD) No.953 of 2016, is squarely covered by the decision in **A.Firdose Begum v. The Secretary to Government, School Education Department**, in **W.P.Nos.14072 of 2015** etc., batch, dated 22.09.2016. In the said



decision, the Division Bench allowed the similar batch of writ petitions with a direction to the Government to release the salary of the Teachers / petitioners therein.

3. At this juncture, it would be beneficial to refer the operative portion of the said order, which reads as follows:

"60. In the light of the above, we are of the view that the Government cannot insist upon the minority institution, both aided or unaided to abide by any Regulation framed under the provisions of the RTE Act. Therefore, we hold that G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, issued by the Government of Tamil Nadu, is not applicable to the minority institutions. Similarly, G.O.Ms.No.76, dated 18.03.2015, issued by the Government of Puducherry, is also not applicable to the minority institutions.

61. Though the intention of the Government is that there should not be any discrimination among the Teachers working in non-minority Schools and minority Schools with respect to qualification and that there should be uniformity in the teaching imparted to the children, in view of the decision of the Apex Court in Pramati Educational & Cultural Trust, the Government cannot take shelter under the guise of discrimination to impose restrictions on minority institutions.

62. However, keeping in mind the larger interest in which the Government has issued the above G.Os., this Court feels that the minority institutions may also consider conducting a refresher course and also some interactive sessions to all the Teachers during annual vacation, in order to ensure and improve the quality of Teachers.

63. In the result, the writ petitions are allowed and the writ appeals are dismissed with a direction to the Government to release the salary of the Teachers and also to pay the arrears of salary within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected M.Ps., are closed."

4. Since the issue involved in this matter is covered by the aforesaid decision in **A.Firdose Begum** (cited supra), we have called for the writ petition, in W.P.(MD) No.953 of 2016, to be heard and disposed of along with this appeal and the same is also being disposed of accordingly.



5. In the light of the above discussions, the writ appeal in W.A.No.689 of 2016 preferred by the Government is dismissed and following the decision in **A.Firdose Begum** (cited supra), the writ petition, in W.P.(MD) No.953 of 2016 is allowed as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

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 Elementary Educational Officer,
Madurai District.
- 4.The Assistant Elementary Educational Officer,
Madurai West.

+1cc to Mr.K.Samidurai, Advocate Sr.No.50482

KRK/SKM

VB/SV/MMS/18.04.2017/4P/6C

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