



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.12.2017

Coram

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**The Hon'ble Mr. Justice T.S. Sivagnanam
and
The Hon'ble Mr. Justice P. Velmurugan**

Review Application (MD).No.247 of 2017

&

C.M.P. (MD).No.11724 of 2017

1. The Government of Tamil Nadu,
rep. by 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 Chief Educational Officer,
Tuticorin, Tuticorin District.
4. The District Educational Officer,
Tuticorin, Tuticorin District.

...Review Petitioners

Vs.

1. F. Bella Fernando.
2. The Correspondent,
St. Joseph's Higher Secondary School,
Manapad - 628 209, Tuticorin District.

... Respondents

Prayer:

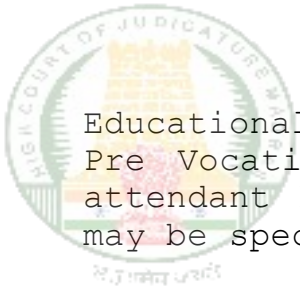
Review Application filed under Order 47 Rules 1 and 2 read with Section 114 of C.P.C. as against the order passed in W.A.(MD) No.421 of 2017, dated 19.04.2017.

Prayer in WA(MD)No.421/2017:-

Prefers this Memorandum of Grounds of Writ Appeal as against the order made in WP(MD)No.10507 of 2015, dated 29/06/2016.

Prayer in WP(MD). 10507/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari directed Mandamus directing the 4th respondent District Educational Officer vide Na.Ka.No.190/A4/21055 dated 19.01.2015 , quash the same, and further Direct the 4th respondent District



Educational Officer to approve the appointment of the petitioner as Pre Vocational Instructor (Sewing) and disburse salary and other attendant benefits w.e.f. 01.12.2014. within a reasonable time as may be specified by this Honourable Court.

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For Review Petitioners : Mr. V.R. Shanmuganathan
Special Government Pleader

For Respondent-1 : Mr. E.V.Siva for
Mr. A.Ajith Geethan

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mr.V.R. Shanmunathan, the learned Special Government Pleader for the petitioners and Mr. E.V.Siva, the learned counsel, representing Mr. A.Ajith Geethan, the learned counsel for the first respondent.

2. This Review Application has been filed by the respondents 1 to 4, in W.P.(MD) No.10507 of 2015.

3. The first respondent herein, filed a Writ Petition, challenging the order, dated 19.01.2015, passed by the District Educational Officer, by which, the appointment of the writ petitioner was not approved and for a consequential direction to approve the appointment of the writ petitioner, as pre-vocational Instructor (Sewing) and disburse salary and other attendant benefits with effect from the date of her appointment, i.e. 01.12.2014.

4. Before we proceed to consider the Review Petition on merits, it may not be out of place for this Court to make a mention here that the review petitioners have approved the appointment of the first respondent/writ petitioner. The Review Petition has been filed on the ground that the School Management did not obtain approval for conversion of the post of Pre-vocational Instructor (Agriculture) into that of Pre-vocational Instructor (Sewing), as required in terms of the Government Order, in G.O.(Ms.) No.39 of School Education Department, dated 21.03.2003. Therefore, the appointment of the writ petitioner was irregular, and the question of approving the appointment, does not arise. Further, it is submitted that the said Government Order has been challenged by various Managements, and batch of cases is pending and the judgment passed by this Bench, in W.A.(MD) No.421 of 2017, may affect the rights of the petitioners while contesting the batch of cases.



5. We have heard the learned counsel for the first respondent/writ petitioner on the above submissions.

6. Firstly, the contentions raised by the learned Special Government Pleader for the review petitioners before this Bench are not grounds of review, nor they have established any errors, which is apparent on the face of the judgement.

7. The Bench considered the correctness of the appointment of an individual teacher, viz., the first respondent/writ petitioner, who was appointed as Pre-vocational Teacher (Sewing). The specific case of the Management as well as the Parent Teachers' Association was that, there was no demand for the Pre-vocational subject in Agriculture, and the School, being located in a Seashore, the agricultural operations could not be conducted, which is required to be done while offering a Pre-vocation course in Agriculture, and therefore, on account of demand for the subject in Sewing, Teacher was appointed. After considering the merits of the case, and also taking note of the case of one Tmt. J. Vasanthi, in W.P.No.11501 of 2015, dated 20.09.2010, we noted that, what is significant to see is that, the post is a Pre-vocational Instructor post, and the subject may be different, but still the Institution has to cater to the needs of the local students, and therefore, taking note of the cases, where, approval was granted earlier, we dismissed the Appeal.

8. Thus, we find that, there are no grounds made out by the review petitioners to review the judgment, dated 19.04.2017, in W.A. (MD) No.421 of 2017. However, we do appreciate the apprehension in the minds of the Special Government Pleader, while the petitioners contest the batch of cases, which have been filed, challenging the aforementioned Government Order, dated 21.03.2003. In the case before us, we have not gone into the validity of the said Government Order, and on facts, we are satisfied that the first respondent's/writ petitioner's appointment is required to be approved, which in fact, the review petitioners have done after the judgment was delivered by us on 19.04.2017. Therefore, it would suffice to protect the interest of the review petitioners, by making an observation that the finding rendered by us, in the judgment, dated 19.04.2017, is on the facts of the case, and it will, in no manner, prejudice the rights of the petitioners/Government in contesting the batch of cases filed, challenging G.O.Ms.No.39, School Education Department, dated 21.03.2003.

9. With the above observation, the Review Application is dismissed. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/



To

The Correspondent,
St. Joseph's Higher Secondary School,
Manapad - 628 209, Tuticorin District.

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.No.247 of 2017

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