



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA**W.P. (MD) No. 22609 of 2017****and****W.M.P. (MD) No. 16180 of 2016**

The Manager and Correspondent,
T.M.B. McAcoy Rural Higher Secondary School,
Ottapidaram - 628 401.
Thoothukudi District.

: Petitioner

Vs.

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

2. The Chief Educational Officer,
Thoothukudi, Thoothukudi District.

3. The District Educational Officer,
Kovilpatti - 628 501.
Thoothukudi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent District Educational Officer, in Na.Ka.No.3893/A4/2016 dated 00.10.2016, quash the same and further direct the respondents herein to approve forthwith the appointment of the Sewing Mistress N.Deva Kumari in the petitioner - school w.e.f. 01.06.2016 by converting the vocational post of Agriculture teacher into that of Sewing and sanction the salary and all other attendant benefits.

For Petitioner

: Ms.A.Amala

for Mr.T.Cibi Chakraborty

For Respondents

: Mr.D.Muruganantham

Additional Government Pleader

O R D E R

By consent of both parties, the Writ Petition itself is taken up for final disposal.

2. The present writ petition is directed against the impugned order dated 13.10.2016 passed by the third respondent / District Educational Officer, Kovilpatti, in and by which permission for conversion of Agriculture Teacher to Sewing Teacher was refused. Assailing the said order the petitioner school has filed the present



writ petition.

3.The learned counsel appearing for the petitioner would submit that initially the school was established as a Middle School in the year 1918 and subsequently, it was upgraded as High School in the year 1992. After five years, it has been further upgraded as Higher Secondary School in the year 1997. 17 teachers are presently working in the school. Among 17 teachers, there are 9 B.T. Assistants, 1 Tamil Pandit, 5 Secondary Grade Teachers, 1 Physical Education Teacher and 1 Pre Vocational Instructor. In addition to that, 7 Post Graduate Assistants, 18 B.T. Assistants, 2 Junior Assistants and 1 Office Assistant are working in the self financed section, to handle 1421 students presently studying in the petitioner school.

4.The learned counsel appearing for the petitioner would further submit that the petitioner school is a Minority Educational Institution providing free education to all and no fee or charge is collected from any children. Since one of the post of Agriculture Teacher in the petitioner school fell vacant on 01.06.2016, on account of the retirement of one Tmt.S.Prema Inbaselvi, the Parent Teacher Association made a request on 11.04.2016 to the management to take steps to convert the said post of Agriculture Teacher to one of Sewing Teacher. Therefore, considering the need of the students, a request was made to the department for conversion of the vacant post of Agriculture Teacher into one of Sewing Teacher. In the meanwhile, since the respondent has taken a long time, the petitioner school appointed one qualified Sewing Mistress Tmt.N.Deva Kumari in the said vacancy with effect from 01.06.2016 and submitted a proposal to the third respondent / District Educational Officer on 06.06.2016 for conversion of the said post and approval thereon.

5.Since, there was no response either from the Director of School Education or from the third respondent / District Educational Officer, the petitioner school once again sent the proposal to the District Educational Officer through Registered post renewing the request for approval of the appointment of Tmt.N.Deva Kumari as Sewing Teacher with effect from 01.06.2016, by converting the vacant post of Agriculture Teacher to Sewing Teacher and to disburse the salary and all other attendant benefits. But, all of a sudden, the present impugned order has been passed without assigning any reason.

6.The learned counsel for the petitioner assailing the impugned order submitted that the Agriculture Teacher post sanctioned by the respondent Education Department could not be continued in view of several reasons namely, insufficient water to cultivate. Secondly, when the Parent Teacher Association also requested the management to go for conversion of the said vacant post of Agriculture Teacher into one of Sewing Teacher, citing the reason that the students are also not showing any interest to learn agriculture occupation, the petitioner school taking note of the present drought faced by Thoothukudi district has rightly thought to make a proposal for



conversion of the post of Agriculture Teacher into one of Sewing Teacher, as that is also going to give sufficient training to the students who will stand on their own after learning the said subject. The proposal submitted by the petitioner school to the third respondent could have been considered.

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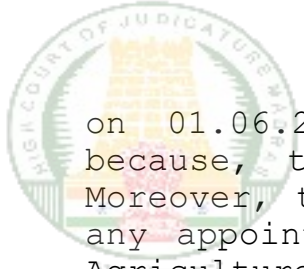
7. On the other hand, the third respondent has wrongly rejected the proposal. In any event, the sanctioned post of Agriculture Teacher cannot be denied for the reasons mentioned above, that there was a failure of monsoon which resulted in scarcity of water in the entire district. In view thereof, the petitioner school is entitled to convert the post of Agriculture Teacher into one of Sewing Teacher. Therefore, the third respondent in all fairness could have acceded the reasonable and genuine request made by the petitioner school.

8. In similar circumstances, when an identical request was placed before the District Elementary Education Officer, Tirunelveli for conversion of the post of Agriculture Teacher into one of Sewing Teacher, citing the reason that the school is unable to run the Agriculture subject due to insufficient water facilities to cultivate any crops or saplings on the ground that the school is very closely situated to sea and that the minimum portable water which is required for raising saplings was also not readily available.

9. Para 5 of G.O.No.39 (School Educated D-1) dated 21.03.2005 has specifically stated that for appointment of Sewing Teacher from 12.07.2002, no prior approval of the department is required. And finally, this Court finding fault with the refusal of the application for appointment of the Sewing Teacher set aside the same and allowed the writ petition. The said order was subsequently confirmed by the Division Bench of this Court in W.A.(MD)No.421 of 2017 on 19.04.2017.

10. Therefore, the impugned order requesting the third respondent to grant approval for conversion of the post of Agriculture Teacher into one of Sewing Teacher deserve to be accepted and the impugned order is liable to be set aside by directing the third respondent to grant approval to the post of Sewing Teacher.

11. A detailed counter affidavit has been filed by the third respondent / District Educational Officer, Kovilpatti. The learned Additional Government Pleader appearing for the respondents would submit that originally one Tmt.S.Prema Inbaselvi was appointed as Agriculture Teacher in the petitioner school. On reaching the age of superannuation, she retired from service on 31.05.2016. As there is no sanctioned post for Sewing Teacher in the petitioner school, there is no right vested with the petitioner school for conversion of the post from Agriculture Teacher to Sewing Teacher. In view thereof, the appointment of Tmt.N.Deva Kumari as a Sewing Teacher



on 01.06.2016 in the post of Agriculture Teacher was refused because, the conversion of post was not permissible under law. Moreover, the Government has taken a decision that there may not be any appointment for filling up of vacancy arising in the post of Agriculture Teacher, Carpentry Teacher, Weaving Teacher, Music Teacher and Sewing Teacher after 16.12.1992. However, the said ban was lifted in G.O.No.132 dated 27.04.1998, lifting the ban for appointment of teachers on the subject of Sewing and Music (Special Teachers). It is relevant to extract paragraph 3 and 4 of the counter affidavit filed by the third respondent.

"It is humbly submitted that the said order dated 31.10.2016 is challenged in the above writ petition. Originally, Tmt.S.Prema Imbaselvi was working as a Agriculture Teacher and she retired from service on superannuation on 31.05.2016. There is no sanctioned post for Sewing Teacher to the petitioner school. Already Government passed an order banning the appointment of Agriculture Teacher. There is no right or permission granted to the school management for the conversion of post from Agriculture to Sewing Teacher. In this circumstances, the appointment of Tmt.N.Deva Kumari as Sewing Teacher on 01.06.2016 in the post of Agriculture Teacher cannot be accepted and such conversion of post is not permissible under law.

It is humbly submitted that the Government took a decision that there may not be any appointment to fill up the vacancies arising in the post of Agriculture Teacher, Carpentry Teacher, Weaving Teacher, Music Teacher and Sewing Teacher after 16.12.1992. Later, the Government issued G.O.No.132 dated 27.04.1998 lifting the ban for the appointment of teachers on the subject of sewing and music (Special Teachers). Further the G.O.Ms.39 dated 21.03.2003 does not permit the petitioner to appoint a Sewing Teacher in the post of Agriculture. It is made clear that once the teacher Tmt.S.Prema Imbaselvi retired on superannuation in the post of Agriculture Teacher, the said post is no longer existing. In the circumstances, the petitioner's school management cannot appoint Tmt.N.Deva Kumari as Sewing Teacher in the post of Agriculture Teacher. The post of Sewing Teacher also is not sanctioned to the petitioner's school. Therefore, the third respondent has rightly placed an order on 13.10.2016 rejecting the request of the petitioner's school management."

12.In the light of the above, the stand taken by the third respondent clearly shows that when G.O.No.132 dated 27.04.1998 was issued lifting the ban for appointment of teachers on the subject of sewing and music (Special Teachers), it goes without saying that the petitioner school is also entitled to fill up the post of Sewing and



Music Teacher. In the present case, the petitioner school was sanctioned with a post of Agriculture Teacher and in the said post, one Tmt.S.Prema Inbaselvi was appointed. However, the said teacher on reaching the age of superannuation retired from service on 31.05.2016. Subsequently, due to the frequent failure of monsoon, the petitioner school was unable to get sufficient water facilities to run the Agriculture subject. Moreover, the barren land belonging to the petitioner school is situated nearer to the sea.

13.In that view of the matter, when the petitioner school is unable to get minimum water for cultivating any sapling or crop, it is highly unjustifiable on the part of the third respondent to keep the post of Agriculture Teacher vacant. It is neither going to be useful to the school nor to the students. Therefore, the sanctioned post of Agriculture Teacher could not be utilised by the petitioner school for the reason that they are unable to get even minimum portable water. The petitioner school in a considered opinion has rightly converted the post of Agriculture Teacher into one of Sewing Teacher. Hence, the refusal to give permission for conversion of the said post is wholly unjustifiable. Hence, the impugned order is set aside. Finally, when the post of Pre-Vocational Instructor was already sanctioned in the petitioner school, the subject of either Agriculture or Carpentry or Sewing can be mutually converted either as Sewing or Music etc.

14.Therefore, the petition stands allowed as prayed for. It is needless to mention that the respondents shall grant approval for appointment of Agriculture Teacher as a Sewing Teacher by sanctioning the grant in aid for appointment of Tmt.N.Deva Kumari within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The Director of School Education,
College Road,
Chennai - 600 006.
- 2.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.
- 3.The District Educational Officer,
Kovilpatti - 628 501.
Thoothukudi District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 71623

+1cc to MR.T.CIBI CHAKRABORTHY Advocate in SR. No. 71571

MR/MRN

<https://hcservices.ecourts.gov.in/hcservices/>

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