



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2017

CORAM:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

CONT.P.(MD)No.1468 of 2016

in

W.P.(MD)No.549 of 2016

K.Mahimaidass ...Petitioner / Petitioner

/Vs./

1.Tmt.D.Sabitha,
The State of Tamil Nadu,
Represented by Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.

2.Mr.Kannappan,
The Director of School Education,
DPI, Campus, College Road, Chennai-600006.

3.Mr.Anjalo Irudaya Samy,
The Chief Educational Officer, Madurai.

4.Mr.Loganathan, The District Educational Officer,
Melur (G), Madurai District.

5.Rev.Sister Jesumary,
The Correspondent,
Lourdu Annai Girls Higher Secondary School,
K.Pudur, Madurai District. ...Contemnors / Respondents

Prayer: Contempt Petition is filed under Section 11 of Contempt of Courts Act 1971, pleased to punish the Respondents for having violated the order passed by this Court in W.P.(MD)No.549 of 2016, dated 15.03.2016.

Prayer in WP(MD). 549/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS to calling for the records pertaining to the order passed by the 1st Respondent in his proceedings in G.O.ms.203/D1/2010 dated 23.07.2010 the consequent order passed by the 4th Respondent in his proceedings in Na.Ka.No.8198/A3/2015 dated .12.2015 and quash the same as illegal and direct the Respondents 1 to 4 to approve the appointment of the Petitioner in the post of Night Watchman in the 5th Respondent School from the



date of appointment on 4/2/2013 by passing appropriate orders on the proposal submitted by the 5th respondent dated 3/9/13 with all consequential attendant benefits including arrears of salary with interest.

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For Petitioner : Mr.G.Sankaran
For R-1 to R-4 : Mr.A.Muthu Karuppan
Additional Government Pleader
For R-5 : Mr.V.Pannerselvam

ORDER

The contempt petition has been filed to punish the respondents for having violated the order passed by this Court in W.P.(MD)No.549 of 2016, dated 15.03.2016.

2. Heard Mr.G.Sankaran, learned counsel for the petitioner, Mr.A.Muthu Karuppan, learned Additional Government Pleader for the Respondents 1 to 4, Mr.V.Pannerselvam, learned counsel for the fifth respondent and perused the records.

3. It is seen that the petitioner was appointed as a night watchman in the fifth respondent school on 04.02.2013. According to the fifth respondent, he has not attended his duty from 11.06.2014. The petitioner filed W.P.(MD)No.17999 of 2015 for issuance of Writ of Mandamus seeking permission to continuous employment on the ground that he was prevented from attending his duty. However, he withdrew the writ petition and filed an another writ petition in W.P.(MD)No.19408 of 2015 for a direction to the respondents 1 to 4 to approve his appointment, as if, he has been continuously working without any complaint.

4. This Court, without issuing notice to the fifth respondent, disposed of the writ petition directing the respondents 3 and 4 to consider the proposal seeking approval of the appointment of the petitioner. The District Educational Officer, Melur, by proceedings in Na.Ka.No.8198/A3/2015 dated __.12.2015, rejected the proposal by observing that he was not attending his duty from 10.06.2014. The petitioner challenged the order in W.P.(MD)No.549 of 2016 and this writ petition was listed along with a batch of cases. By a common order, this Court, setting aside the order of the respondents, directed them to approve their appointment.

5. According to the learned counsel for the fifth respondent, the order was obtained by suppressing the material facts and therefore there is no violation of the order passed by this Court.

6. According to the learned counsel for the petitioner, he was prevented from attending his work, which is disputed by the fifth respondent. But the fact remains, the petitioner was not



attending his duty since 10.06.2014. perusal of the order impugned in the writ petition reveals, based on the proposal sent by the 5th respondent dated 03.09.2013 direction was sought for approval. Therefore, it is evident, the petitioner deliberately suppressing the material facts obtained order in the above writ petition.

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7. It is settled law that any order obtained by committing fraud is nullity and it cannot be enforced.

8. In view of the above fact, this Court is of the considered view that there is no violation of the order passed in the writ petition. Accordingly, this contempt petition is dismissed. No costs.

Sd/-

Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

1. Tmt. D. Sabitha,
The Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.
2. Mr. Kannappan,
The Director of School Education,
DPI, Campus, College Road,
Chennai-600006.
3. Mr. Anjalo Irudaya Samy,
The Chief Educational Officer, Madurai.
4. Mr. Loganathan,
The District Educational Officer,
Melur (G), Madurai District.

+One cc to Mr. V. Panneer Selvam, Advocate, SR.No.86953

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RL/6C/3P/SV/MMS/SAR1/30/11/2017

CONT.P. (MD) No.1468 of 2016
in

W.P. (MD) No.549 of 2016
13/11/2017