



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P(MD)No.1506 of 2011

and M.P.(MD) No.1 of 2011

C.Sumathi

... Petitioner

vs.

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

2.The District Elementary Educational Officer,
Dindigul.

3.The Assistant Elementary Educational Officer,
Dindigul.

4.The Correspondent,
Gandhiji Middle School,
14th Ward, No.20, Makkan Street,
Dindigul,
Pin Code : 624 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to promote the petitioner as Head Master in the 4th respondent school (i.e.) Gandhiji Middle School, 14th Ward, Dindigul - 1 within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.A.Thirumurthy

For Respondents 1 to 3 : Mr.S.Sadesh Kumar
Additional Government Pleader

For 4th Respondent : No appearance

ORDER

The petitioner, who is presently working as Secondary Grade Teacher in the 4th respondent school has filed this Writ Petition to promote her as Headmaster in that school.

2.Heard Mr.A.Thirumurthy, learned counsel appearing for the petitioner and Mr.S.Sadesh Kumar, learned Additional Government Pleader appearing for the respondents 1 to 3. Though notice has been served on the 4th respondent in this writ petition, there is no representation for the 4th respondent before this Court.

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

3.Respondents 1 to 3 have filed counter affidavit for the



aforesaid relief sought by the petitioner stating as follows:

"5.It is submitted that the post of Headmaster is a promotional post and it has to be filled up following the procedure laid down in rules. The School Committee is the appointing authority and the School Committee is alone shall consider any body for promotion and hence the petitioner is put to strict proof of all the particulars submitted her.

6.It is submitted that the post of the Headmaster has to be filled up as per the provisions in rule 15(4) of rules 1974 under Tamil Nadu Recognised Private Schools Regulation Act 1973. The Department will approve the appointment of the Headmaster after satisfying whether the rules have been followed, in such cases. It is also submitted that it is mandatory to effect promotions as per rules. The school Committee alone is empowered to promote a teacher as Headmaster following the instructions contained in the rules, rule 15(4) of Tamil Nadu Recognised Private Regulations Act 1973.

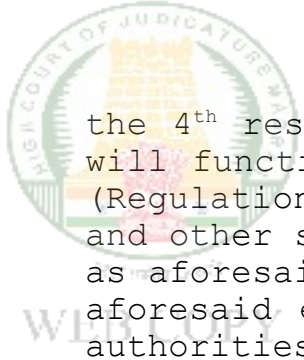
7.It is submitted that the School is under direct payment. There is no legally valid school Committee in the school. In non minority schools the Educational Agency of every private school, shall constitute a School Committee as per rule 12 and subsidiary rules framed there under. The Secretary nominated by the School Agency. The Secretary shall act on the basis of the resolution passed at the meetings of the School Committee. As the School Committee has the power it can alone appoint or order promotion of teachers. In the absence of a legal and valid School Committee, the question of promotion of the petitioner as Headmaster does not arise. She has to wait till the school Committee decides.

8.It is submitted that in cases of appointment of Special Officer as per Act 18 A of Tamil Nadu Recognised Private School Regulations Act 1973, the Special Officer shall be vested with the powers to efficiently manage and run the private school. And whereas only the system to direct payment is in force, in the 4th respondent school there is no provision to take policy decision. Under the direct payment system the following functions alone will be performed.

1. Sanction of annual increments.
2. Sanction of all loans.
3. Sanction of Provident Fund.
4. Sanction of Festival Advance.
5. Sanction of Retirement Benefits.
6. Awarding of Selection/Special Grades.
7. Fixing pay in the revised scales of pay and consequent increments.

Apart from the above fixation this respondent having no authority to redress grievance of the petitioner."

4.In view of the aforesaid contentions of the respondents 1 to 3, the respondents 1 to 3 shall take necessary steps in accordance with law after giving requisite notice and opportunity of hearing to



the 4th respondent to appoint a Special Officer for the school, who will function in terms of the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973, so that the claim made by the petitioner and other similarly placed persons could be considered in the manner as aforesaid in the counter affidavit of the respondents 1 to 3. The aforesaid exercise shall be expediently completed by the concerned authorities and a report of such compliance shall be filed before the Registrar (Judicial), Madurai Bench of Madras High Court, Madurai on or before 28.02.2017.

5. Accordingly, this Writ Petition is disposed with the above observations. No costs. Consequently, connected M.P.(MD) No.1 of 2011 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

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

2. The District Elementary Educational Officer,
Dindigul.

3. The Assistant Elementary Educational Officer,
Dindigul.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 87282

+1cc to Mr.A.THIRUMURTHY Advocate in SR. No. 86816

SJ

JS/SV.MMS/SAR.2/23.11.2017/3P-6C

order in
W.P(MD)No.1506 of 2011
and M.P. (MD) No.1 of 2011
13.11.2017