



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.02.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Writ Petition (MD) No.976 of 2011

and

M.P (MD) No.1 of 2011

M.Venkatasamy Naicker,
S/o.Muthaiah Naicker,
Manager-cum-Correspondent,
Educational Agency,
Hindu Thuvakkapalli,
Sattikinathupatti,
R.Reddipatti (P.O),
Rajapalayam Taluk,
Virudhunagar
District.

... Petitioner

Vs.

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

2.The Joint Director,
(Elementary Education),
College Road, Chennai - 600 006.

3.The District Elementary
Educational Officer,
Virudhunagar Dt. At Virudhunagar.

4.The Additional Assistant
Educational Officer,
Rajapalayam, Virudhunagar Dt.

5.Tmt.S.Rajeswari,

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari and Mandamus calling for the records of the third respondent in Na.Ka.No.7077/A2/2010, dated 03.12.2010 and 27.12.2010 and quash the same.

For Petitioner

<https://hcservices.ecourts.gov.in/Reservices/R-4>

For R-5

: Mr.A.Sivaji

: Mr.Aayiram K.Selvakumar,
Government Advocate

: Mr.T.Lajapathi Roy



ORDER

The fifth respondent, who was working as a Secondary Grade Teacher in the petitioner-school was selected by the Teachers Recruitment Board and appointed as Secondary Grade Teacher in panchayat union elementary school and hence, she had requested the management of the petitioner-school to relieve her so as to enable her to join duty in the newly appointed school. Since the petitioner-school did not relieve the teacher, she filed a writ petition in W.P(MD)No.1726 of 2010, whereby the respondents 1 and 2 therein were directed to give relieving order to the petitioner therein. Consequently, the Assistant Elementary Educational Officer had directed the petitioner to relieve the teacher. Since the Secretary of the petitioner-school did not relieve the teacher, the third respondent by an order dated 27.12.2010 had invoked Rule 34 of the Tamil Nadu Private Schools Regulation Rules and cancelled the secretaryship and ordered for direct payment. Challenging the same, the present Writ Petition has been filed.

2. By another order dated 12.10.2009, the third respondent had declared one post of teacher as surplus in the petitioner-school, which came to be challenged in W.P(MD) No.923 of 2010, wherein this Court vide order dated 29.01.2010, had granted interim stay of the operation of the order declaring one teacher as surplus. In view of the said order, the petitioner was unable to relieve the fifth respondent.

3. Today when the writ Petition(MD)No.923 of 2010 came up for hearing, I had passed an order quashing the order declaring one teacher as surplus.

4. I do not see any justification in the impugned order passed by the third respondent for the reason that the fifth respondent could not have been validly relieved from the petitioner-school in view of the interim stay granted in W.P(MD)No.923 of 2010, which was in force at that particular point of time.

5. The impugned order refers to the order passed in W.P(MD) No.1726 of 2010, which cannot be taken as a basis to relieve the fifth respondent, in view of the stay granted by this Court in W.P (MD)No.923 of 2010. Moreover, the surplus staff declared in the impugned order in W.P(MD)No.923 of 2010 has also been set aside by this Court today. Hence, the impugned order passed by the third respondent, is liable to be set aside.

Accordingly, this Writ Petition is allowed. Consequently, the impugned order of the third respondent dated 27.12.2010 is hereby set aside. No Costs. Consequently,



connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(A.S)

/True copy/

WEB COPY

Sub Assistant Registrar

To

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

2.The Joint Director,
(Elementary Education),
College Road, Chennai - 600 006.

3.The District Elementary
Educational Officer,
Virudhunagar Dt. At Virudhunagar.

4.The Additional Assistant
Educational Officer,
Rajapalyam, Virudhunagar Dt.

+1cc to Mr.A.Sivaji,Advocate in SR.10582

+1cc to Mr.T.LajapathiRoy,Advocate,SR.10389

W.P (MD) No.976 of 2011
23.02.2017

PM

KK-CM-MSA-8.3.2017-3P-7C