

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.3.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.530 of 2018
and
C.M.P.No.5006 of 2018

1. State of Tamil Nadu,
rep. by Secretary,
School Education Department,
Fort St. George, Chennai 600 009.
2. The Director of Elementary Education,
DPI Building, Chennai 600 006.
3. District Elementary Educational Officer,
Villupuram.
4. Assistant Elementary Education Officer,
Thirukovillur, Villupuram District.

Appellants

Versus

Gandhi Aided Elementary School,
Rep. by its Manager, A.Subramanian
T.Kunathur, Thirukovillur,
Villupuram District.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 14.9.2017 passed in W.P.No.6339 of 2013 on the file of this court.

WP.No. 6339 of 2013 has been filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified mandamus, calling for the records relating to the order passed by the 1st respondent in letter No.3040/B1/2010-12 dt 12.1.2012 and quash the same and further direct the 1st respondent to approve the appointment of Mr.S.Dinesh Secondary Teacher in the petitioner School with effect from 1.12.2008 with all necessary attendant benefits like salary and with arrears and all other emoluments.

For appellants : Mr.S.T.S.Murthy,
Additional Advocate General assisted by
Mrs.V.Annalakshmi, Government Advocate

For respondent : Mr.K.H.Ravikumar

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Additional Advocate General appearing for the appellants and Mr.K.H.Ravikumar, learned counsel who takes notice on behalf of the respondent.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge allowing the writ petition and thereby directing the appellants to approve the appointment of one S.Dinesh, Secondary Grade Teacher in the writ petitioner-School.

3. Rejection order passed by the Government to approve the appointment of the abovesaid S.Dinesh, Second Grade Teacher in the writ petitioner School, on the ground that proper ratio of male-female Teachers has not been followed, was challenged by the writ petitioner before the learned Single Judge.

4. On appreciating the facts and circumstances of the case in the light of the precedents, the learned Single Judge has allowed the writ petition, which is under challenge in the present writ appeal.

5. The stand taken by the learned Additional Advocate General is that as per G.O.Ms.No.237 dated 5.9.2000, the male-female Teachers ratio at the Second Grade Teachers level should be 1:3 and the present claim of the writ petitioner to approve the appointment of a male Teacher cannot be entertained since there is already one male Teacher out of four Teachers and the present post arose on retirement of a lady teacher among the three lady Teachers already working in the petitioner-School.

6. The reliance placed by the respondent herein in support of their case is that Government Letter No.267, School Education Department dated 19.10.2000 wherein, it was proposed to fill such vacancies at the ratio of 1:1. It is contended by the learned Additional Advocate General that such communication dated 19.10.2000 relied upon by the writ petitioner relates to filling up of vacancies for the year 2000-2001 alone.

7. Having heard the learned counsel appearing for the parties and perused the Government Order and communications relied upon by the parties, we are of the view that the stand taken by the learned Additional Advocate General cannot be sustained as there cannot be two different policies for filling up the vacancies at different period and even accepting so, the

latest one is in favour of the writ petitioner. Apart from that, we are of the view that there cannot be any reservation more than 50% Further, this court has taken a view in a catena of decisions to the effect that if no meritorious female candidates are available male candidates can be appointed. Moreover, the writ petitioner also appears to have expressed that considering the strength of the students, requirement for number of Teachers would arise in the near future and by that time, lady candidate would be appointed. Therefore, we are of the view that the reservation policy has not been violated by the writ petitioner which has been properly appreciated by the learned Single Judge and therefore, it does not require any interference. In that view of the matter, the writ appeal is dismissed. The appellants are directed to issue the approval order with effect from the date of appointment of the Teacher concerned and to release all the arrears in this regard. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

ssk.

To:

- 1.The Secretary,
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai 600 009.
2. The Director of Elementary Education,
DPI Building, Chennai 600 006.
3. District Elementary Educational Officer,
Villupuram.
4. Assistant Elementary Education Officer,
Thirukovillur, Villupuram District.

+1cc to Mr.K.H.Ravi Kumar, Advocate SR.No.19421
+1cc to Government Pleader SR.No.20450

W.A.No.530 of 2018

SSI (CO)
GN(12/04/2018)