

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2018
CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.15838 of 2017
and WMP.No.17150 of 2017

Tmt.J.Prince Mary

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Nagapattinam, Nagai District.

2.The Assistant Elementary Educational Officer,
Kollidam, Nagai District.

3.The Correspondent,
St.Arulanandar Primary School,
Keelamathur, Nagai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the 1st respondent in Na.Ka.No.3176/Aa2/2016 dated . 11.2016, signed on 24.11.2016 and quash the same and consequently direct the 1st respondent to approve the appointment of the petitioner as Secondary Grade Teacher w.e.f. 7.7.2015 in the 3rd respondent school with all consequential benefits.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.P.Rajalakshmi,
Additional Govt. Pleader for R1 and R2
Ms.A.Arulmary for R3

W E B C O P Y
O R D E R

This Writ Petition has been directed against the impugned order of the first respondent dated 24.11.2016, in and by which the District Elementary Educational Officer, Nagapattinam/first respondent herein has rejected the request of the third respondent school, seeking approval for appointment of the petitioner viz., Tmt.J.Prince Mary, as Secondary Grade Teacher.

2. The petitioner has passed S.S.L.C. in the year 2002 and Higher Secondary Course in March, 2004 and also obtained Diploma

in Teacher Education in October, 2006. The petitioner registered her educational qualifications in the District Employment Exchange, Nagapattinam and she also appeared for Teacher Eligibility Test, held on August, 2013 and successfully passed by securing 97 marks and therefore, she became fully qualified and eligible to be appointed as Secondary Grade Teacher. While the petitioner was expecting order of appointment in any Government school, the third respondent School, which is an aided religious minority educational institution coming under the control of Diocese of Tanjore Society, appointed the petitioner in a sanctioned post, which fell vacant on account of promotion given to Sister Ajitha, Secondary Grade Teacher as Headmistress on 02.06.2015. The said promotion given to Sister Ajitha was also approved by the first respondent / District Elementary Educational Officer, Nagapattinam, vide proceedings dated 25.02.2016.

3. Mr.S.Ravichandran, learned counsel appearing for the petitioner while assailing the impugned order submitted that on the date of vacancy arose for the post of Secondary Grade Teacher on account of promotion given to Sister Ajitha, there were 62 students studying from Classes I to V, with 3 sanctioned posts consisting of 1 Headmistress and 2 Secondary Grade Teachers and therefore, on the basis of then existing students strength, the third respondent School is eligible to have one more Secondary Grade Teacher as per Right to Children Free and Compulsory Education Act. Accordingly, the petitioner was appointed and after her appointment, the third respondent school also sent a proposal to the first respondent through the second respondent, seeking approval for appointment of the petitioner as Secondary Grade Teacher. However, the first respondent, after remaining quiet for nearly 16 months, has passed the impugned order dated 24.11.2016, rejecting to accord approval on the ground that there are 15 surplus teaching staff in the schools run by the Diocese of Tanjore Society. Concluding his arguments, learned counsel for the petitioner has submitted that the third respondent school is having 5 sections from classes I to V with 59 students and as per settled legal position, the third respondent school is entitled to have 1 Headmistress and 2 Secondary Grade Teachers and if the impugned order is set aside and the first respondent is directed to approve the appointment of the petitioner as Secondary Grade Teacher, the third respondent School will have only 3 teachers, which falls within the ratio laid down by this Court.

4. Mrs.P.Rajalakshmi, learned Additional Government Pleader appearing for the respondents 1 and 2 has invited the attention of this Court to the detailed counter affidavit of the first respondent and submitted that the reason for rejecting the proposal dated 07.07.2015 sent by the third respondent school to

the first respondent through the second respondent clearly shows that the third respondent is one of the schools run by the Diocese of Tanjore Society, which is having 9 schools in Nagapattinam and it was found that 15 teachers are found to be in surplus and therefore, instead of making use of surplus teachers, the third respondent school has unilaterally appointed a new teacher, which has added one more to the surplus and therefore, the request of the third respondent school was rightly rejected by the first respondent.

5. Ms.A.Arulmary, learned counsel appearing for the third respondent school, opposing the counter affidavit filed by the first respondent, has submitted that the tabulation shown in paragraph No.7 of the counter affidavit is not correct, the reason being the schools mentioned in Sl.Nos.4 and 5 are not coming under the control of Diocese of Tanjore Society, which clearly shows non-application of mind on the part of the first respondent. It is also submitted that when the first respondent declined to accept the approval for appointment of the petitioner as Secondary Grade Teacher in the third respondent school on the ground that there were 15 surplus teachers, they have not passed any order fixing the students : teacher ratio, therefore, the impugned order is bad in law.

6. This Court also finds no merit and substance in the counter affidavit filed by the first respondent. Further, the counter affidavit is also not substantiated by any supporting document.

7. Therefore, this Writ Petition is allowed and the impugned order of the first respondent in Na.Ka.No.3176/Aa2/2016 dated 24.11.2016 is set aside and the first respondent is directed to approve the appointment of the petitioner as Secondary Grade Teacher in the third respondent School with effect from 07.07.2015 and confer her with all monetary benefits within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The District Elementary Educational Officer,
Nagapattinam, Nagai District.

2.The Assistant Elementary Educational Officer,
Kollidam, Nagai District.

3.The Correspondent,
St.Arulanandar Primary School,
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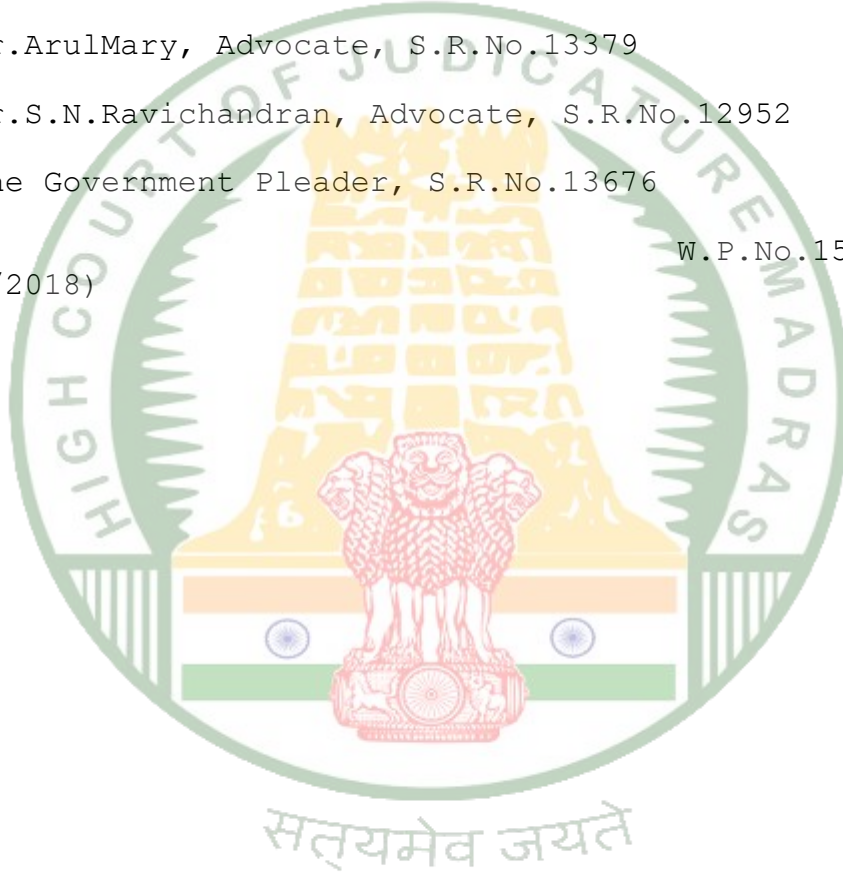
+1cc to Mr.ArulMary, Advocate, S.R.No.13379

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.12952

+1cc to the Government Pleader, S.R.No.13676

W.P.No.15838 of 2017

RRK(23/02/2018)



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