

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 31.07.2017

Pronounced on : 02.01.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.16026 of 2013 and
M.P.Nos.2 and 3 of 2013 and
WMP.No.21149 of 2017

S.Ramu .. Petitioner

Vs.

1.Director of School Education,
Chennai - 600 006.

2.District Educational Officer,
Tindivanam,
Villupuram District.

3.Secretary,
Sri Sivaprakasa Swamigal Higher Secondary School,
Mailam - 604 304,
Tindivanam Taluk, Villupuram District.

4.S.Rajeshwari .. Respondents

(R4 is impleaded as per order dated 08.02.2016
in MP.No.4/2013 in WP.No.16026/2013)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd Respondent in his Proceedings Na.Ka.No.2076/A2/2013 dated 27.05.2013 and quash the same, and direct the Respondents to confer all the consequential benefits to the petitioner.

For Petitioner : Mr.P.Ganesan
for M/s.C.S.Associates

For Respondents: Mr.R.Govindasamy (for R1 and R2)
Special Government Pleader

Mr.S.Baskaran (for R3)

Mr.G.Sankaran (for R4)

O R D E R

The Petitioner has come up with the present Writ petition for the relief to set-aside the order passed by the 2nd Respondent in his proceeding in Na.Ka.No.2016/A/2013 dated 27.05.2003 by way of writ of Certiorarified Mandamus.

2.The instant Petitioner is the 4th Respondent in W.P.No.24217/2012 and the said writ petition filed by one S.Rajeshwari was allowed by this court. The said Rajeshwari is impleaded in the writ petition vide the order passed by this court in M.P.No.4/2013 by the order dated 08.02.2016.

3.The learned Counsel for the Petitioner would submit that the petitioner completed his B.Litt., (Tamil) in the year 1998, M.A., (Tamil) in the year 2003 and B.Ed., in the year 2008. Subsequently, after the completion of all procedures, the Petitioner was appointed as B.T. Assistant (Tamil) on 01.01.2012 by the proceedings of the 2nd respondent and the appointment was approved by the 1st Respondent on 31.05.2012. Subsequently, by the impugned order of the 2nd Respondent dated 27.05.2013, the approval of appointment of Petitioner was cancelled on the ground that the Petitioner did not acquire the Teacher Eligibility Test.

4.However, the counsel for the Petitioner would submit that as for as the Petitioner is concerned, it is not necessary to complete the Teacher Eligibility Test as the Petitioner was appointed in the Higher Secondary School. So, no question would arise that the Petitioner must complete the Eligibility Test. Moreover the approval was unilaterally cancelled by the 2nd Respondent without providing any opportunity to the Petitioner. So, he has come up with the present writ petition as the impugned order is liable to be set-aside.

5. On the submission of the learned Counsel for the petitioner, the impugned order is perused and the same would show that nowhere it is stated that the Petitioner was given any opportunity to explain his grievance but straight away the impugned order was passed. So, the learned Counsel for the Petitioner would submit that the 2nd Respondent has passed the impugned order without opportunity to the Petitioner which is unacceptable and bad in law. He would further submit that time and again this court and the Hon'ble Supreme Court has repeatedly held that in passing the administrative order too, the Principles of Natural Justice must be followed without any violation. Here, though this court has appreciated the totality of the case, the impugned order will no way be justifiable as no opportunity was given to the Petitioner before passing the impugned order.

6. On the other hand the counsel for Respondent would submit the impugned order was passed after the application of mind and over all facts. So, the impugned order does not require any intervention. Though the instant writ petition is clubbed with another W.P.No.24217/2012, the facts and circumstances is not similar but has remote connectivity only. So, the writ petition is dealt with individually.

7. I heard Mr.P.Ganesan for M/s.C.S.Associates, learned counsel for the petitioner, Mr.R.Govindasamy, learned Special Government Pleader for the respondents 1 and 2, Mr.T.S.Baskaran, learned counsel for the 3rd respondent and Mr.G.Sankaran, learned counsel for the 4th respondent and all the materials available on record are perused.

8. The impugned order is perused and the perusal does not find any justification in passing the impugned order as no opportunity was provided to the Petitioner to explain his grievance and this court is unable to find any justification in passing the impugned order as no reference is found as to whether any opportunity was provided to the Petitioner to complete the eligibility test.

9. For this simple reason in the considered opinion of this Court, this writ petition is allowed and the impugned order is liable to be set-aside, accordingly set-aside. At the same time, it is open to the respondents to take legal action against the petitioner, if necessary for the non-completion of Teachers

Eligibility Test by providing reasonable opportunity to him in the manner known to law. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vs

To

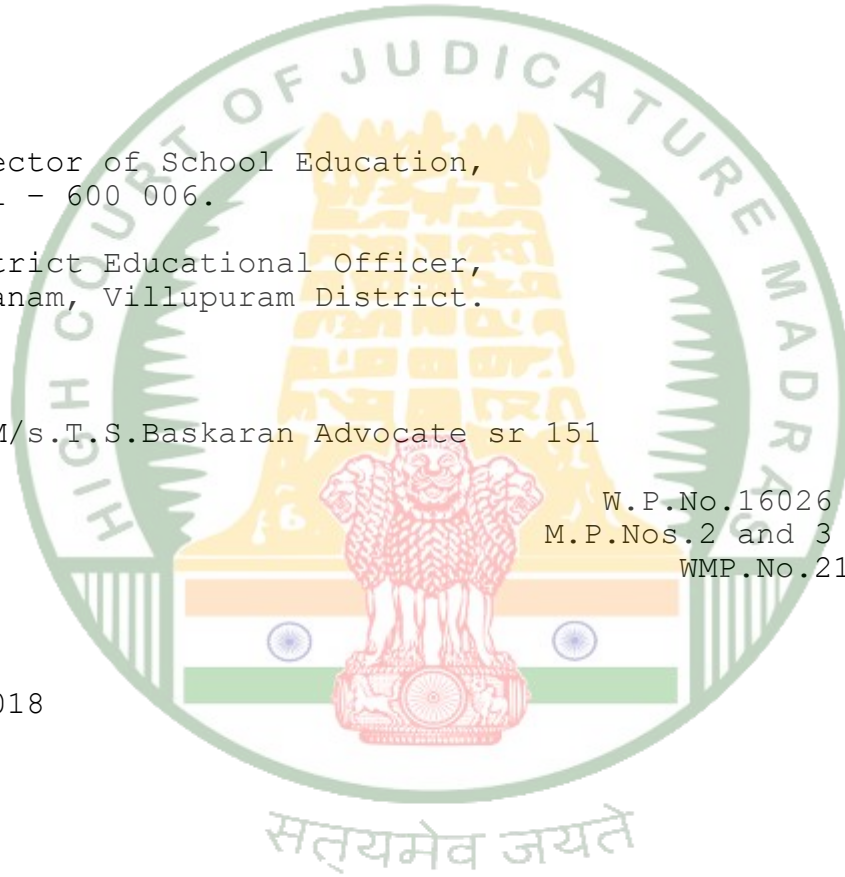
1.The Director of School Education,
Chennai - 600 006.

2.The District Educational Officer,
Tindivanam, Villupuram District.

+1 cc to M/s.T.S.Baskaran Advocate sr 151

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