

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No. 4924 of 2016
and
W.M.P.No. 4269 of 2016

D.Sivabalan

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Cuddalore District,
Cuddalore.

3.The Secretary,
R.C.T. Higher Secondary School,
Chidambaram, Cuddalore-608 001.

4.Head Master,
R.C.T. Higher Secondary School,
Chidambaram, Cuddalore-608 001.

5.Princy Jebasteen

...Respondents

Prayer : The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, to declare that the selection of the 5th respondent in the post of Physical Director is null and void and contrary to the Rules and for a consequential direction directing the 1st to 4th respondents to conduct a fresh interview, select and appoint the petitioner to the post of Physical Director in the 3rd respondent school.

For Petitioner : M/s.L.Parvin Banu
for M/s.Row and Reddy

For Respondents : Mr.P.Raja,
Government Advocate (for R1 and 2)
Mr.S.Sithirai Anandan (for R3 to R4)
M/s.SA.Kanmani
for M/s.AL.Ganthimathi (for R5)

O R D E R

The relief sought for in this Writ Petition is to declare that the selection of the 5th respondent in the post of Physical Director is null and void and contrary to the Rules and for a consequential direction, directing the respondents 1 to 4 to conduct a fresh interview, select and appoint the petitioner to the post of Physical Director in the 3rd respondent school.

2.The learned counsel for the writ petitioner states that the 5th respondent who was erroneously selected by the respondents 3 and 4 for appointment to the post of Physical Director. The 5th respondent is the close relative of the Secretary of the school and without following the procedures contemplated under the Private School Regulations Act, the appointment was made and therefore, the competent authorities are bound to initiate an enquiry in respect of all such irregularities and illegalities in appointment.

3.The learned counsel appearing on behalf of the 5th respondent vehemently contended that the 5th respondent is fully qualified for appointment to the post of Physical Education Teacher. The selection was conducted in accordance with the procedures contemplated. There was no irregularity in appointment of the 5th respondent as Physical Education Teacher in the school. Thus, the writ petitioner being the candidate who was not selected has filed the present writ petition without substantiating the grounds raised. Thus, the Writ Petition is liable to be rejected.

4.The learned Government Advocate appearing on behalf of the official respondents made a submission that undoubtedly the 3rd and 4th respondents' school are bound to follow the procedures contemplated under the Act and Rules. The management of the school is duty bound to conduct the selection procedures in accordance with the guidelines provided by the department also. In respect of selection and appointment, guidelines are also issued and private aided schools are bound to follow the same scrupulously while undertaking the process of selection for the appointment to the post of Physical Education Teacher.

5.In view of the disputed facts raised by the respective parties to the lis on hand, this Court is of an opinion that the Chief Educational Officer who is the competent authority under the Act to conduct the enquiry and verify the mode of selection and the procedures followed by the respondents 3 and 4 for the appointment to the post of Physical Education Teacher and accordingly, pass appropriate orders on merits and in accordance with law. It is needless to state that in the event of any

illegality or irregularity, the selection has to be cancelled. In the event of the fact that the procedures are valid in accordance with law, then the appointment is to be confirmed. Accordingly, the 2nd respondent is directed to conduct an enquiry in relation to the appointment of the 5th respondent as Physical Education Teacher and pass orders on merits and in accordance with law by affording reasonable opportunity to all the parties concerned within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

gsa/vjt

To

1. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
2. The Chief Educational Officer,
Cuddalore District,
Cuddalore.

+1cc to Mr. Row & Reddy Advocate, S.R.No. 61820
+1cc to Mr. Sithiraj Anandam, Advocate, S.R.No. 61833
+1cc to the Government Pleader, S.R.No. 62124

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VD(CO)
GN(20/09/2018)