



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.7793 of 2018

S.Metilda Jeyarani

... Petitioner

-Vs-

- 1.The Secretary to Government,
Department of School Education,
St. George Fort, Chennai.
 - 2.The Director of Elementary School Education,
Elementary Education Department,
DPI Compound, Chennai.
 - 3.The District Elementary Educational Officer,
District Elementary Educational Office,
Trichy, Trichy District.
 - 4.The Additional Assistant Elementary Educational Officer,
Additional Assistant Elementary Educational Office,
Poonganur Range, Trichy District.
 - 5.The Correspondent,
St. Valanar Elementary School,
Poonganur, Trichy District.
- ..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order passed by the 3rd respondent in O.Mu.No.4247/4/2017 dated 06.12.2017 quash the same and consequently direct the 3rd respondent to approve the petitioner's appointment as Head Master at 5th respondent school and give all other service and monetary benefit from 27.03.2017.

For Petitioner : Mr.S.Chellapandian

For R1 to R4 : Mr.M.Murugan

Government Advocate

ORDER

The prayer sought for in this Writ Petition is for a writ of Certiorarified Mandamus to call for the records pursuant to the impugned rejection order passed by the 3rd respondent in O.Mu.No.4247/ 2017 dated 06.12.2017 quash the same and consequently direct the 3rd respondent to approve the petitioner's appointment as Headmistress at 5th respondent school and give all other service and monetary benefit from 27.03.2017.



2.By consent of both parties the writ petition itself taken up for final disposal at the stage of admission itself.

3.The petitioner was appointed as Headmistress in the fifth respondent School on 27.03.2017. The said school is a Minority Aided Institution. Initially, the petitioner was appointed as Secondary Grade Teacher at St.Valanar Primary School and she was working in the said school from 29.06.2011 to 31.05.2012. Thereafter, the petitioner switched over to S.A.S.Vidyalaya (CBSE) School and served there from 18.06.2012 to 25.03.2017 as secondary grade teacher. While so, the petitioner came to understand that the post of Headmistress fell vacant on 01.12.2015 at the 5th respondent school. Since the petitioner acquired necessary qualification for the said post, she applied for the same and fulfilled the necessary qualification as per the relevant rule of Tamil Nadu Minority Schools (Recognition and payment of Grant) Rules, 1977 and was appointed in the fifth respondent school on 27.03.2017 as primary School Headmistress by direct recruitment.

4.Since the fifth respondent school is an aided Minority Institution and it was founded in the year 1952, the appointment of the petitioner as Primary School Headmistress by way of direct recruitment is well within the rule governing the minority private aided institution.

5.When the appointment of the petitioner was sent for approval, the same was forwarded on 01.09.2017 with the recommendation of the concerned Assistant Elementary Educational Officer. Though the proposal of the appointment was forwarded with the recommendation of the fourth respondent, the third respondent, who is the competent authority to approve the said appointment, has rejected the same by the impugned order dated 11.12.2017, wherein the third respondent has given a reason that the petitioner's experience certificate for having worked for five years as well as the certificate of passing the Teacher Eligibility Test have not been produced and therefore, for the said reason the proposal was rejected.

6.The learned counsel appearing for the petitioner would submit that the petitioner has the experience as well the qualification and the same has already been considered by the fourth respondent and forwarded the same to the third respondent for approval. With regard to Teacher Eligibility Test qualification is concerned, since the fifth respondent school is an aided minority institution, the said requirement is not a valid one under law, as has been declared by the Division Bench of this Court in the matter of Secretary to Government of Tamil Nadu, Education Department Vs. S.Jeyalakshmi reported in 2016 (5) CTC 639. In view of the same, the impugned order cannot stand and therefore, it has to be quashed.

7.I have heard Mr.M.Murugan, learned Government Advocate, appearing for the official respondents.



8. The learned Government Advocate appearing for the official respondents would submit that the issue of requirement of Teacher Eligibility Test qualification, is no more res-integra as the same has been covered by the decision of the Hon'ble Division Bench of this Court as rightly pointed by the learned counsel for the petitioner and therefore, the reason cited in the impugned order may not be justifiable. Hence, the impugned order can be set aside and the matter can be remitted back to the third respondent for reconsideration for the purpose of approval.

9. This Court has considered the submissions made by both the learned counsel for the petitioner and the learned Government Advocate appearing for the official respondents.

10. In view of the above said fact that the reasons cited in the impugned order has no more valid reasons, especially, in the context of the law having been declared by the judgment cited supra, this Court has no hesitation to hold that the impugned order is unsustainable.

11. In the result, the impugned order is quashed and the matter is remitted back to the third respondent for reconsideration and on such reconsideration, the third respondent shall take into account the law declared by this Court in this regard as indicated above and after verifying the other certificates and qualifications of the petitioner, the needful shall be done by passing order granting approval to the petitioner's appointment as primary school Headmistress of the fifth respondent school. The aforesaid exercise shall be done by the third respondent within a period of eight weeks from the date of receipt of a copy of this order.

12. With this above direction, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary to Government,

Department of School Education, St. George Fort, Chennai.

2. The Director of Elementary School Education,

Elementary Education Department, DPI Compound, Chennai.

3. The District Elementary Educational Officer,

District Elementary Educational Office, Trichy, Trichy District.

4. The Additional Assistant Elementary Educational Officer,

Additional Assistant Elementary Educational Office,

Poonganur Range, Trichy District.

+1cc to Mr. S. Chellapandian, Advocate, SR.No.60604

+1cc to The Special Government Pleader, SR.No.61027

ta