



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**W.P. (MD) No.18604 of 2018****and****W.M.P. (MD) .No.16470 and 16471 of 2018**

Senthil Kumari

.. Petitioner

Vs.

- 1.The Chief Educational Officer,
Dindigul District.
- 2.The District Educational Officer,
Batlagundu,
Dindigul District.
- 3.The Secretary,
N.S.V.V.Girls Higher Secondary School,
Pattiveeranpatti,
Dindigul District.
- 4.Gowsalya,
B.T. Assistant (Maths)
N.S.V.V.Girls Higher Secondary School,
Pattiveeranpatti,
Dindigul District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in File No.6, dated 22.06.2018 approved by the 2nd respondent in O.Mu.No.255/A3/18 dated 24.7.2018 and quash the same and consequently direct the 3rd respondent to assess merits and ability afresh between petitioner and 4th respondent within a stipulated time.

For Petitioner	:	Mr.T.A.Ebenezer
For Respondent	:	Mrs.S.Srimathy
		Special Government Pleader
		for RR-1 to 3
		Mr.N.Dilip Kumar for R-4

O R D E R

The petitioner has forward with this writ petition, challenging the order passed by the 3rd respondent in File No.6, dated 22.06.2018 approved by the 2nd respondent in O.Mu.No.255/A3/18 dated



24.7.2018 and quash the same and consequently direct the 3rd respondent to assess merits and ability afresh between petitioner and 4th respondent within a stipulated time.

2. The case of the petitioner is that she has got to be promoted and her post has got to be approved as P.G. Assistant (Maths) in the vacancy arisen due to the retirement of one Mrs. Malathi. Whereas the third respondent School promoted the fourth respondent to that post and the second respondent also approved that order. Aggrieved over the same, the petitioner earlier approached this Court by way of filing W.P. (MD). No. 16491 of 2018 with a prayer to restrain the respondents from promoting the 4th respondent and for promoting her in the post of PG Assistant (Maths) on 21.07.2018. At that time, this Court passed an order that the case of the petitioner by way of mandamus cannot be granted and disposed of the writ petition by holding as follows:

"In view of the said appointment having been made at the third respondent school appointing the fourth respondent as P.G. Assistant (Maths) and also the said appointment having been approved by the second respondent, the prayer sought for herein, by way of mandamus cannot be considered at this juncture. Hence, this writ petition is dismissed, with liberty to the petitioner to challenge the said order of appointment made against the fourth respondent."

3. At this juncture, the learned counsel for the petitioner has drawn the attention of this Court to Section 41 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, which reads as follows:

"41. Appeal against orders of Competent Authority:-

(1) Any person aggrieved by any order, decision or direction of the competent authority under [Section 29 or under any other provision] (other than Section 34) of this Act may prefer an appeal against such order, decision or direction, to such authority or officer as may be prescribed; and different such authorities or officers may be prescribed for different classes of private schools.

(2) If the competent authority omits to communicate its decision to any applicant within the period specified in clause (b) of Section 6 or in clause (b) of sub-section (2) of Section 8 [or in sub-section (3) of Section 29], such applicant may prefer an appeal against such omission to the appellate authority prescribed under this section."

4. In view of the earlier order passed by this Court, I am of the view that no further order is necessary in this case, since the petitioner has got a right of appeal, unless she exhausts the remedy.



5. Accordingly, this writ petition is dismissed. If the petitioner is aggrieved by order, it is open to her to file an appeal before the Appellate Authority showing the 4th respondent as an opposite party. The appellate authority shall consider the appeal, if filed within time, after hearing the petitioner and the fourth respondent, and comes to a decision in accordance with law, within a period of 2 months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS-IV)

vs

To

1. The Chief Educational Officer,
Dindigul District.
2. The District Educational Officer,
Batlagundu, Dindigul District.
3. The Secretary,
N.S.V.V. Girls Higher Secondary School,
Pattiveeranpatti,
Dindigul District.

+1cc to Mr. N. Dilip Kumar, Advocate in SR No. 80520
+1cc to Mr. T. A. Ebenezer, Advocate in SR No. 80525

W.P. (MD) No. 18604 of 2018

NM/SV/SAR 4/27.09.2018/3P/6C