

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 05.03.2018

CORAM

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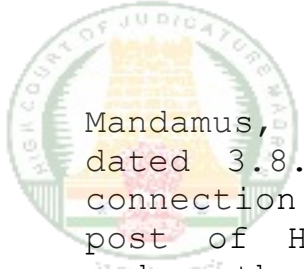
THE HON'BLE MR.JUSTICE **S.M.SUBRAMANIAM****W.P. (MD) Nos.17404 to 17407 of 2015**

1.Grace Selin Rani	... Petitioner in W.P(MD)No.17404 of 2015
2.S.Anita Jasmine	... Petitioner in W.P(MD)No.17405 of 2015
3.M.Mariya Theres	... Petitioner in W.P(MD)No.17406 of 2015
4.I.Tracy	... Petitioner in W.P(MD)No.17407 of 2015

-vs-

1. The District Educational Officer,
Cheranmahadevi,
Office at S.N.High Road,
Tiurunelveli.
2. The Secretary and Manager,
Concordia High/Higher Secondary Schools,
Lutheran Primary and Middle Schools,
M.E.L.I.M Primary Schools,
No.14/72, Lutheran Street,
Valliyoore - 627 117.
3. The Correspondent,
Concordia Higher Secondary School,
Vadakkankulam,
Radhapuram Taluk,
Tirunelveli District.
4. K.Baul Sundar,
Son of Karuthudaiyan
(Aged about 48 years),
General Secretary,
Indian Evangelical Lutheran Church,
Door No.321,
Lutheran Mission Compound,
K.P.Road, Nagercoil - 629 001. ... Respondents in all W.Ps'

(R4 impleaded in all these W.Ps'as per order of this Court made in M.P(MD)Nos.1,1,1 and 1 of 2015 in W.P(MD)Nos.17404 to 17407 of 2015, dated 5.3.2018)



Mandamus, directing the first respondent to accept the letter dated 3.8.2015 which was given by the respondents 2 and 3 in connection with the approval of the Petitioner's promotion to the post of Headmistress at the third respondent School and pass orders thereupon within a stipulated period fixed by this Court.

Prayer in W.P(MD)No.17405 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to accept the letter dated 3.8.2015 which was given by the respondents 2 and 3 in connection with the approval of the Petitioner's appointment to the post of P.G.Assistant (Commerce) at the third respondent's School and pass orders thereupon within a stipulated period fixed by this Court.

Prayer in W.P(MD)No.17406 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to accept the letter dated 3.8.2015 which was given by the respondents 2 and 3 in connection with the approval of the Petitioner's appointment to the post of P.G.Assistant (Tamil) at the third respondent's School and pass orders thereupon within a stipulated period fixed by this Court.

Prayer in W.P(MD)No.17407 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to accept the letter dated 3.8.2015 which was given by the 3rd respondent in connection with the approval of the Petitioner's appointment of P.G.Assistant (Zoology) at the third respondent's School and pass orders thereupon within a stipulated period fixed by this Court.

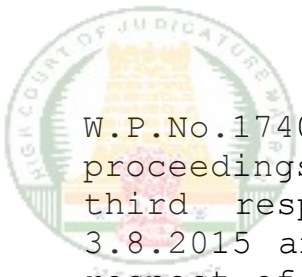
W.P. (MD) Nos.17404 to 17407 of 2015

For Petitioner	: M/s.R.Anand
For Respondent-1	: Mr.M.Muthu
	Additional Government Pleader
For Respondent-2	: M/s.T.Pon Ramkumar

COMMON ORDER

The relief sought for in these Writ Petitions is for a direction to the first respondent to accept the letter, dated 3.8.2015 which was given by the respondents 2 and 3 in connection with the approval of the Petitioners promotion to the post of Headmistress/Teachers at the third respondent/School.

2.The learned counsel for the Writ Petitioners states that the Writ Petitioners were appointed as Post Graduate Teachers 1.6.1997, 18,7,2015 and 2017.15 and thereafter the Petitioner in



W.P.No.17404 of 2015 was appointed as Headmistress by proceedings, dated 18.7.2015. In respect of grant of approval the third respondent sent proposals to the first respondent on 3.8.2015 and the first respondent has not taken any decision in respect of grant of approval in favour of the writ Petitioners.

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3.The learned counsel for the second respondent strenuously contended that the appointment of the Writ Petitioners as Headmistress/Post Graduate Teachers is a fake one. The learned counsel for the second respondent urged this Court to look into the affidavit and the manner in which the appointment was given and the order of appointment of the Writ Petitioners as Headmistress/Post Graduate Teachers is placed in page Nos.27 to 30 of the typed-set of papers. The learned counsel made a reference that in the letter-head of the appointment order, it is stated as India Evangelical Lutheran Church, register under the Trust Act No.35/(V/2014. The learned counsel for the second respondent states that the India Evangelical Lutheran Church was a society registered under the Societies Registration Act. The Society in fact was registered in the year 1959.Thus the Trust registered under the Trust Act is a fake one and no such registration can be accepted and the educational authorities have to consider these aspects before taking a decision in respect of the grant of approval to the Writ Petitioners for the posts of Headmistress/Post Graduate Teachers. Further it is brought to the notice of this Court that the third respondent school is functioning under the direct payment and there is a management dispute in existence.

4.The learned counsel for the Petitioners rebuts the contentions by stating that the Petitioners were duly appointed as Headmistress/Post Graduate Teachers and therefore proposals submitted by the third respondent ought to have been considered by the first respondent within a reasonable period. Further it is contended that the Writ Petitioners were appointed as Headmistress/Post Graduate Teachers as per the by-laws of the third respondent/School and as such there is no infirmity.

5.At the outset, this Court is of an opinion that management dispute is in existence. The school as of now is under the direct payment. The Headmistress/teachers are receiving monthly salary directly from the Government. This apart, the order of appointment issued in favour of the Writ Petitioners are also under question. All these aspects in support of the documents available and submitted by the respective parties are to be considered by the competent authorities for the purpose of taking a decision under the provisions of the 'Act' in respect of grant of approval of appointment to the Writ Petitioners as Headmistress/Post Graduate



6. The learned counsel for the second respondent contended that the appointment issued in favour of the Writ Petitioners cannot be approved at all. This Court is of an opinion that the process of scrutinisation of original records and process of considering proposals submitted by the schools for seeking approval is to be considered by the competent authorities under the provisions of the 'Act'. The High Court cannot conduct the process of scrutinisation of original records and supportive documents filed and to be filed by the respective parties in relation to the proposals not given with the approval of appointments either as Teachers or as Headmistress. Such original process is to be undertaken by the competent authorities of the Act.

7. Institutional respects are of paramount importance and such institutional respects are ensured under the Constitution of India. Every authority, as a matter of fact, created by way of Statute has to be respected equally and their exercise of powers must be allowed to be done in the manner known to law. The High Court can entertain Writ Petitions overlooking such powers of the original authorities only on exceptional circumstances and not in a routine manner. In normal circumstances, the competent authorities must be allowed to exercise their powers vested under the Statute. Thus each and every aspect and issue cannot be decided by the High Court, more specifically, by invoking Article 226 of the Constitution of India. The Original proposal submitted by the School or by any other person is to be considered by the original competent authority and original competent authority is bound to look into all other aspects of the matter and pass orders on merits and in accordance with law.

8. An apprehension is raised by the learned counsels for the parties to the lis, that the competent authorities may not consider the documents and other facts now placed before this Court. Such an apprehension is certainly illusory and cannot be entertained by this Court. It is left open to the parties concerned to plead before the original authority of the lis, the merits and demerits and it is needless to state that the authorities competent are bound to consider all the merits and demerits and documents filed by the respective parties for the purpose of passing of orders. Further, it is necessary that such competent authorities have to consider the merit, demerits and documents and record a clear finding at the time of passing of final orders. Thus a mere apprehension raised by way of arguments and not supported with any documents, cannot be considered by this Court. This Court if considered such apprehensions raised in all the cases, each and every issue is to be decided only by the High Courts and the powers granted by way of Statute for the competent authorities will be totally derailed. Thus the authorities will be deprived of their powers to be exercised in the manner known to law. Certain factual issues and original documents has to be considered by the original authorities and



the extraordinary jurisdiction of this Court can be exercised only for the limited purpose of testing the reasonableness and fairness in procedures adopted by the competent authorities, while taking a decision and passing orders under the provisions of the Act.

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9. Under these circumstances, this Court is of an opinion that it would suffice if a direction is given to the first respondent to consider the proposals in the light of the observations made by this Court in the aforementioned paragraphs. It is needless to state that the competent authorities are bound to consider all the points in relation to the registration of the societies or Trusts and connected documents in this regard. Accordingly, the first respondent is directed to consider the proposals submitted by the third respondent on 3.8.2015 and pass orders on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order, after providing due opportunities to all the parties concerned.

10. Accordingly, these Writ Petitions stand disposed of. However there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The District Educational Officer,
Cheranmahadevi,
Office at S.N.High Road,
Tiurunelveli.

+4cc to Mr.R.Anand, Advocate Sr.No.53213,53214,53215,532016
+2cc to Mr.T.Pon Ramkumar, Advocate Sr.No.52850,52851
+1cc to Mr.T.R. Jeyapalam, Advocate Sr.No.53096
+1cc to Spl.Government Pleader Sr.No.53613

VSN

VB/KK/SAR3/02.04.2018/5P/10C

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17407 of 2015
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