

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

DATED: 06.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.20055 and 22564 of 2015

and

M.P. (MD) No.1 of 2015

and

W.M.P. (MD) Nos.16126 and 3243 of 2016

W.P. (MD) No.20055 of 2015

V.A.Raj

... Petitioner

Vs

1.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.

2.Indian Evangelical Lutheran Church (IELC),
Rep. By its President,
No.47, Eldams Road,
Teynampet,
Chennai-600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to approve the appointment of Rev.Y.Suvishesa Muthu as Correspondent of Concordia Higher Secondary Schools at Vadakkankulam and Valliyur with effect from 02.07.2014 by considering the petitioner's representation dated 24.08.2015.

For Petitioner : Mr.G.Thalaimutharasu

For R1 : Mr.M.Muthu
Additional Government Pleader

For R2 : Mr.J.Barathan

W.P. (MD) No.22564 of 2015

K.Baul Sundar

<https://hcservices.ecourts.gov.in/hcservices/>

... Petitioner

Vs.



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

2.V.A.Raj

3.Rev.Y.Suvishesha Muthu

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the first respondent from approving the third respondent as the correspondent of the Concordia Higher Secondary Schools at Vadakkankulam and Valliyur, Tirunelveli District and consequentially approving the appointments said to have made by the respondents 2 and 3.

For Petitioner : Mr.J.Barathan

For R1 : Mr.M.Muthu
Additional Government Pleader

For R2 : Mr.G.Thalaimutharasu

For R3 : No appearance

COMMON ORDER

The present writ petition is filed seeking for a direction to approve the appointment of Rev.Y.Suvishesha Muthu as Correspondent of Concordia Higher Secondary Schools at Vadakkankulam and Valliyur with effect from 02.07.2014 by considering the petitioner's representation dated 24.08.2015.

2. Another writ petition in W.P.(MD)No.22564 of 2015 is filed for a direction to forbear the first respondent from approving Rev.Y.Suvishesha Muthu, as the correspondent of the Concordia Higher Secondary Schools at Vadakkankulam and Valliyur, Tirunelveli District and consequentially approving the appointments said to have made by the respondents 2 and 3.

3. At the outset, the first writ petition was filed seeking approval of the appointment of Rev.Y.Suvishesha Muthu and the second writ petition was filed to forbear the respondent from approving the appointment. Granting approval of appointment is to be done in accordance with the procedures contemplated under the Act and Rules.

4. The learned counsel for the petitioner in WP(MD)No.22564 of 2015 strenuously contended that the appointment of Rev.Y.Suvishesha Muthu is a fake one. He further urged this Court



to look into the affidavit and the manner in which the appointment was given and the order of appointment of the said Rev.Y.Suvishesha Muthu. The learned counsel for the petitioner 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 educational authorities have to consider these aspects before taking a decision in respect of the grant of approval to Rev.Y.Suvishesha Muthu as Correspondent. Further it is brought to the notice of this Court that the school is functioning under the direct payment and there is a management dispute in existence.

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 Rev.Y.Suvishesha Muthu is 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 Teachers.

6.The learned counsel for the petitioner contended that the appointment issued in favour of Rev.Y.Suvishesha Muthu as Correspondent 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 the 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 competent cannot 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 statutes.

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 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. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)



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

- + 1 cc TO Mr.T.R.Jeyapalam , Advocate in SR No. 53201
- + 1 cc TO Mr.K.Viralinathan , Advocate in SR No. 53217
- + 1 cc TO The Special Government Pleader in SR No. 53849 &53850

pnn

AE/SV MMS/SAR2/21.03.2018/5P/5C

W.P. (MD) Nos.20055 and 22564 of 2015
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