



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.A(MD)No.1043 of 2017

S.Sumathi ... Appellant/3rd Party
Vs.
1.P.Indumathy ... 1st Respondent/Writ Petitioner
2. The Director of School Education,
DPI Complex,
College Road, Chennai.
3. The District Educational Officer,
Alagar Koil Road,
Thallakulam, Near Post Office,
Madurai-2.
4. The Secretary,
Sri Meenakshi Sundareswarar Girls
Higher Secondary School,
Madurai.
5. The Headmistress,
Sri Meenakshi Sundareswarar
Girls Higher Secondary School,
Madurai. ... Respondents 2 to 5/
Respondents 1 to 4

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against to set aside the order, dated 03.07.2017 made in W.P(MD) No.3732 of 2017 on the file of this Court.

Prayer in WP(MD). 3732/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to appoint the petitioner as Assistant Headmistress with the 3rd respondent School in the light of G.O.Ms.No.1289 (Education, Science and Technology Department) dated 18.06.1982 and the recommendation of the 2nd respondent dated 10.06.2015.



For Appellant

: Mr.M.Ajmal Khan
Senior Counsel
for M/s Ajmal Associates

For Respondent

: Mr.K.P.Krishnadoss
for Mr.S.Sathishkumar
for R.1

: Mr.A.K.Baskara Pandian
Special Government Pleader
for R.2 and R.3

: Mr.VR.Shanmuganathan
Special Government Pleader
for R.4 and R.5

JUDGMENT

(Judgment of the Court was delivered by **M.DURAISWAMY, J.**)

Challenging the order passed in W.P.(MD)No.3732 of 2017, the third party has filed the above Writ Appeal.

2. The first appellant filed the writ petition in W.P.(MD) No.3732 of 2017 to issue a Writ of Mandamus directing the respondents to appoint her as Assistant Headmistress with the third respondent School in the light of G.O.Ms.No.1289 (Education, Science and Technology Department), dated 18.06.1982 and the recommendation of the second respondent dated 10.06.2015.

3. Though the writ petitioner has made averments in the affidavit filed in support of the petition with regard to the appellant viz., S.Sumathi, she was not made the appellant as respondent in the writ petition to be specific, in paragraph No.3 of the affidavit of the writ petition, the writ petitioner has stated that the third respondent is about to appoint one S.Sumathi, who is senior to her and sought for clarification from the second respondent and that the second respondent clarified the same and recommending the writ petitioner to be appointed as Assistant Headmistress through his proceedings dated 10.06.2015, in the light of G.O.No.1289(Education, Science and Technology Department), dated 18.06.1982.

4. The learned Single Judge, vide his order dated 03.07.2017, allowed the writ petition by observing that there is no proceeding to support the stand of the third respondent School to say that S.Sumathi was deployed along with her post to the third respondent School. Further it has been observed that the
<https://hservices.ecourts.gov.in/hservices/>
Sate G.Sundari, to whom the third respondent is more concerned with for her appointment to the post of Assistant Headmistress, is



junior to the writ petitioner and hence, her claim is wholly untenable and not supported with any legal basis.

5. Since the observations made in the writ petition are against the appellant, the Division Bench of this Court granted leave to the appellant to file the writ appeal as against the order passed in the writ petition.

6. When the first respondent/writ petitioner has made averments as against the appellant in the affidavit filed in support of the writ petition and also made submissions before the learned Single Judge with regard to the appointment of the appellant, we are of the considered view that the appellant is a proper and necessary party for the proper adjudication of the writ petition. However, for the reasons best known to the writ petitioner, she has not made the appellant as a party in the writ petition and in all fairness, the writ petitioner ought to have impleaded the appellant as party respondent to the writ petition. Further, the respondents 3 and 4 have stated that on the ground of non-joinder of necessary party, the writ petition deserves to be dismissed.

7. For the reasons stated above, we are of the considered view that the appellant is the proper and necessary party for the proper adjudication of the writ petition and she should be given an opportunity to file counter affidavit and contest the writ petition on merits and in accordance with law.

8. In these circumstances, the order passed by the learned Single Judge made in W.P.(MD)No.3732 of 2017 is set aside and the matter is remanded back to the learned Single Judge for fresh consideration. The appellant shall file her counter in the writ petition and contest the matter in accordance with law.

9. Since this Court had already given liberty to the appellant to file the appeal as against the order passed in the writ petition and that we have also come to the conclusion that the appellant is a proper and necessary party, she is impleaded as fifth respondent in the writ petition.

10. Mr.M.Ajmalkhan, learned Senior Counsel appearing for the appellant and Mr.K.P.Krishnadoss, learned Counsel appearing for the first respondent submitted that the learned Single Judge may be requested to dispose of the writ petition at an early date.

11. In view of the submissions of the learned Counsel appearing on either side, it is open to the learned Counsel to make a mention before the learned Single Judge to take up the matter. The learned Single Judge may take a decision with regard to the taking up of the matter early.



12. With these observations, the Writ Appeal is allowed. No costs.

Sd/-
Assistant Registrar(AS)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

1. The Director of School Education,
DPI Complex,
College Road, Chennai.
2. The District Educational Officer,
Alagar Koil Road,
Thallakulam, Near Post Office,
Madurai-2.

+2cc to Mr.S.Sathishkumar, Advocate Sr.No.60900,60816
+1cc to M/s Ajmal Associates, Sr.No.60667

SSL

VB/SKN/RSK/SAR3/26.04.2018/4P/6C

W.A(MD)No.1043 of 2017
10.04.2018