



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2018

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.6098 of 2015andM.P.(MD)Nos.1 and 2 of 2015andW.M.P.(MD)No.16587 of 2017

Ramaswamy Memorial Middle School,
Vasudhevanallur,
Sivagiri Taluk,
Tirunelveli District,
Represented by its Secretary,
Mr.G.Ganesh Moorthy.

... Petitioner

Vs.

- 1.The Director of Elementary Education,
College Road, Chennai-600 006.
- 2.The Joint Director of Elementary Education (Aided Schools),
College Road, Chennai-600 006.
- 3.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed in Na.Ka.No.29645/G1/2014 dated 17.03.2015 by the 2nd respondent confirming the order passed by the 3rd respondent in O.Mu.No.3653/Aa1/10 dated 09.09.2010 and quash the same and directing the 3rd respondent to approve the appointment of Mr.Veeramani to the Secondary Grade Teacher post in the petitioner school from the date of his appointment on 28.04.2010 with all monetary benefits as per proposal made by the petitioner school dated 05.05.2010.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.S.Srimathy
Spl. Govt. Pleader**ORDER**

The petitioner has come forward with the present writ petition challenging the order of the second respondent dated 17.03.2015 and for a consequential direction to the third respondent to approve the



appointment of one Veeramani as Secondary Grade Teacher in the petitioner school from the date of his appointment i.e., 28.04.2010 with all monetary benefits as per the proposal made by the petitioner school dated 05.05.2010.

2. The case of the petitioner is that the petitioner School (in short the "School") is a Private Aided School with eight Secondary Grade Teacher posts in the School. On 21.08.2009, one Post of Secondary Grade Teacher post fell vacant and to fill up the said post, the School made paper publication in Dinamalar Newspaper at Tirunelveli on 19.04.2010. As no one from Arundhathiyar Community turned up for interview, one Veeramani belonging to SC community, who succeeded in the interview, was appointed as Secondary Grade Teacher in the School with effect from 28.04.2014. After appointment, necessary papers, seeking approval of the said appointment, were sent to the DEEO, Tirnelveli.

3. The original authority and the Appellate Authority have refused to grant approval to the School on the ground that the procedure adopted by it was wrong, namely, for effecting two paper publications, prior permission ought to be obtained. Admittedly, the School had effected paper publication by way of advertisement with regard to appointment of a Teacher from Arundhathiyar Community and as there was none applied for the said post from Arundhathiyar community, one Veeramani, who belongs to SC community, was appointed and approval has been sought from the respondents. It is the contention of the respondents that if no candidate from Arundhathiyar Community turned up for selection process, the School ought to have called for candidates from the District Employment Exchange. Without doing so, the act of the School in giving preference of the community by itself, may not be acceptable.

4. It is pertinent to state here that the Hon'ble Supreme Court in the case of Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh vs. K.B.N.Visweshwara Rao and others, reported in (1996) 6 SCC 216, held that any selection to Government posts should only be by way of publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news-bulletins. For better appreciation, the relevant paragraph of the judgment is extracted hereunder:

"6. Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidates are unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving



candidate are deprived of the right to be considered for appointment to a post under the state. Better view appears to be that it should be mandatory for the requisitioning Departments for selection strictly according to seniority and reservation as per requisition. In addition the appropriate Department or undertaking or establishment should call for the manes by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news-bulletins: and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates."

5. From the above, it is obvious that the Employment Exchange is not the source of recruitment and that paper advertisement has to be given for recruiting eligible candidates and other candidates, who are eligible will have to be given an equal chance to compete with others. Secondly, the advertisement given twice is with regard Arundhathiyar SC as well as for SC. As there is no candidate available from SC Arundhathiyar, one Veeramani belonging to SC community was selected and appointed. Thereafter papers have been sent for approval of his appointment. This cannot be said to be illegal. Even assuming that there is irregularity in the selection process, it would in no way cause any prejudice to the respondents in considering the case of the School, as admittedly, there was no candidate available from Arundhathiyar on the date of appointment of Veeramani as Secondary Grade Teacher.

6. In view of the same, this Court thinks it appropriate to interfere with the orders of the respondents, thereby accepting the case of the petitioner with regard to approval of appointment of Veeramani. Accordingly, the respondents are directed to consider the case of the petitioner School regarding grant of approval to the said Veeramani, within a period of two months from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)



To:

1. The Director of Elementary Education,
College Road, Chennai-600 006.
2. The Joint Director of Elementary Education (Aided Schools),
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

+1 cc to Mr.K.Kannan,Advocate,SR.No.84481

+1 cc to Spl.Govt.Pleader,SR.No.86241

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SS/PM/SAR 3/20.12.2018/4P/6C

W.P. (MD)No.6098 of 2015
17.09.2018