



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.A.(MD)No.1362 of 2016

- 1.The Director of Elementary Education,
College Road, Nungambakkam, Chennai - 600 006.
- 2.The District Elementary Education Officer,
Tirunelveli District, Tirunelveli. ... Appellants
Vs.

Management of RC School,
represented by its Correspondent A.Arulmani
RC Middle School, Alagapuram Post,
Viz.Ittamoxhi - 627 652,
Tirunelveli District. ... Respondent

Prayer: Writ Appeal is filed under Clause 15 of Letter Patent,
against the order passed by this Court, dated 20.09.2010 in W.P.(MD)
No.11501 of 2008.

Prayer in WP(MD). 11501/ 2008 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorarified Mandamus, to call for the records pending on the file
of the 1st respondent passed in O.Mu. No. 1228/G3/2007 , dated
29/01/2007 and quash the same as illegal and consequently direct the
1st respondent to sanction and approve the post of Sewing Teacher in
the palce of Agriculture Teacher by way of sanctioning the post and
to pay all arrears of salary to the Sewing Teacher J. Vasanthi from
the date of appointing her on 01/09/2005.

For Appellants : Mr.V.R.Shanmuganathan
Special Government Pleader
For Respondent : Mr.G.Thalaimutharasu

J U D G M E N T

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J.)

Heard Mr.V.R.Shanmuganathan, learned Special Government
Pleader for the appellants and Mr.G.Thalaimutharasu, learned
counsel for the respondent.



petition is whether the action of the Management in sanctioning for conversion of the post of prevocational instructor in Agriculture to Sewing was just and proper. In other similar matters, the Court considered the identical and one such judgment being in W.A.(MD)No. 421 of 2017 (The State of Tamil Nadu and others Vs. P.Bella Fernando and another), dated 19.04.2017. In the said Writ Appeal, the Division Bench to which one of us (T.S.S.J) was a party, considered the correctness of a similar order as impugned in the writ petition and after considering the factual and the legal position, dismissed the appeal filed by the State.

3. For better appreciation, the entire judgment in Writ Appeal (MD)No.412 of 2017 is quoted herein below.

"Heard Mr.S.Chandrasekar, learned Government Advocate appearing for the appellants and Mr.A.Ajith Geethan, learned counsel appearing for the first respondent. By consent, the Writ Appeal is taken up for final disposal at the stage of admission itself.

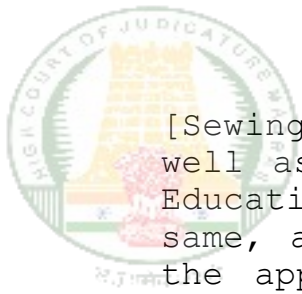
2. This Writ Appeal is directed against the order dated 29.06.2016 made in W.P.(MD).No.10507 of 2015.

3. The Writ Petition was filed by the first respondent herein seeking for setting aside the order passed by the fourth appellant herein, dated 19.01.2015 and to direct the fourth appellant to approve the appointment of the first respondent herein as pre-vocational Instructor [Sewing] and disburse salary and other benefits.

4. The said Writ Petition was heard along with another W.P.[MD]No.10508 of 2015, wherein a similar relief was sought for. The Writ Court heard the matters together and after taking note of the earlier order passed in W.P.[MD]No.11501 of 2008, allowed the Writ Petition and directed the appellants herein to approve the appointment of the first respondent herein and release the salary within a time frame.

5. The appellants have challenged the order passed by the Writ Court on the ground that though the second respondent institution is a minority institution, they do not require prior permission for filling up retirement vacancy, in the instant case, the post, which was sanctioned is a pre-vocational instructor [Agriculture] and the vacancy could have been filled up with the Pre-Vocational Instructor [agriculture], whereas the second respondent has filled up the vacancy with the Pre-Vocational Instructor [Sewing], that too, without obtaining prior approval of the Director of School Education, who is the second appellant herein.

6. An identical issue was considered in the case of Management of RC School, Tirunelveli Vs. Director of Elementary Education and another in W.P.[MD]No.11501 of 2008, dated 20.09.2010. In the said case also, a similar appointment was made and the management contented that there were no takers for the Vocational subject of agriculture and therefore, they have appointed the pre-vocational Instructor



[Sewing]. The Writ Court, considering the factual aspect as well as the Government Order issued in G.O.Ms.No.39, School Education Department, dated 21.03.2003 and by interpreting the same, allowed the Writ Petition and directed the approval of the appointment. It is not in dispute that the said order passed in favour of one Tmt.J.Vasanthi has been approved and she has been paid salary.

7. In the case on hand, the first respondent management took a specific stand in the Writ Petition that after the retirement of Tmt.A.Irudaya Stella, on 31.05.2014, the students were not interested in agriculture subject and the school being situated in the seashore area and the water had become saline and unfit for raising saplings and crops and there was a constant request from the Parent Teacher Association in this regard, the management appointed the first respondent herein as Pre-Vocational Instructor [Sewing]. It may be true that prior approval has not been obtained by the management before the appointment of Pre-Vocational Instructor [Sewing]. But, what is important is that the post, which has been sanctioned is pre-vocational instructor and the subject may be agriculture, carpentry, Weaving, Sewing and Music.

8. Considering the factual situation pleaded by the management as well as the first respondent herein, there is no serious error committed by the management in accommodating the Pre-Vocational Instructor [Sewing], instead of Pre-Vocational Instructor [agriculture]. Further, it is brought to the notice of this Court that in respect of another similar appointment of one Tmt.J.Vanitha in Annai Terasa High School, Manappadu, by proceedings dated 12.03.2016, the District Educational Officer at Tirunelveli has approved the appointment. Thus, for all the above reasons, no good grounds are made out to interfere with the order passed by the Writ Court.

9. In the result, the Writ Appeal is dismissed, confirming the order dated 29.06.2016 made in W.P.(MD). No.10507 of 2015. No costs. Consequently, connected Miscellaneous Petition is closed. "

4. Thus, following the above decision, the Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

+1CC to Mr.G.Thalaimutharasu, Advocate, SR.No. 49973

W.A.(MD)No.1362 of 2016

20.02.2018