

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.2443 of 2018
and CMP.No. 19702 of 2018

- 1) The Director of School Education,
College Road, Chennai- 600 006.
- 2) The Chief Educational Officer,
Rajaveedhi, Coimbatore.
- 3) The District Educational Officer,
Coimbatore. Appellants

Vs.

- 1) K.Mani
- 2) K.Vedhanayagi
- 3) K.Maheswari Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 24-08-2017 in W.P.No.28926/2007.

W.P.No.28926 of 2007:

Petition filed under Article 226 of the Constitution of India praying this Hon'ble Court to Call for the entire records in connection with the proceedings of the 2nd respondent in O.Mu.No.3039/A4/2007 dt 28.5.2007 quash the same and direct the respondents to appoint the petitioner temporarily in the post of Drawing Teacher in Coimbatore district by releasing one post of Drawing Master out of the 18 sanctioned posts.

For Appellants : Mr.C.Munnusamy
Additional Government Pleader.

For Respondents : M/s.P.Ganeshan
for C.S.Associates.

JUDGMENT

(Judgement of the Court delivered by T.S.Sivagnanam, J.)

This appeal filed by the Directorate of School Education and two others is directed against W.P.No.28926 of 2007 filed by the first respondent herein, praying for issuance of Writ of Certiorarified Mandamus to quash the proceedings of the Chief Educational Officer, Coimbatore in O.Mu.No.3039/A4/2007 dated 28.05.2007 and direct the appellant to appoint the first respondent temporarily in the post of Drawing Teacher in Coimbatore District by releasing one post of Drawing Teacher out of the 18 sanctioned posts. The writ petition was allowed by directing the first respondent to be appointed as a Drawing Teacher. However, the writ Court did not set aside the appointments of the respondents 2nd and 3rd herein who are 4th and 5th respondents in the writ petition, on the ground that they have been working for all these years. The appellants are aggrieved by the direction issued by the Writ Court in directing the first respondent to appoint as a Drawing Teacher.

2. We have heard, Mr.C.Munnusamy, Additional Government Pleader for the appellants and Mr.P.Ganeshan, learned counsel appearing for the respondents.

3. Before we proceed to consider the correctness of the order passed by the Writ Court we need to point out that though the writ petition was pending from 2007 for 10 long years, the appellants did not file counter affidavit. Therefore, when the writ petition was heard in August 2017, the writ Court was fully justified in proceeding with the matter without any counter affidavit being filed by the appellant. In the memorandum of Grounds of appeal, the appellants seek to justify their action in not appointing the first respondent by stating that only roster has to be followed and the same was strictly followed and the respondents 2 and 3 were appointed and the appellants cannot have any march over respondents 2 and 3.

4. As pointed out by us earlier the learned Writ Court did not interfere with the selection of the respondents 2 and 3 and issued directions only in respect of the first respondent herein to be appointed as a Drawing Teacher. Thus, we have to see whether the direction issued by the writ Court was proper. Considering the facts and circumstances of the case, the first respondent/writ petitioner had impugned the communication of the Chief Educational Officer dated 28.05.2007. Strictly speaking the same cannot be a impugned order because it is a reply given to the first respondent under the Right to Information Act. Therefore, from the facts disclosed in the reply under the Right to Information Act, does it make out a case for the appellants in not having appointed the first respondent. Admittedly, there

were 18 posts of Drawing Teacher sanctioned for Coimbatore District and 8 posts alone were filled up and remaining 10 posts were surrendered.

5. This fact was not brought to the knowledge of the first respondent/writ petitioner and only when he applied for information under Right to Information Act and received the reply dated 28.05.2007, he came to know that 10 posts of Drawing Teacher which are sanctioned for Coimbatore District have been surrendered. Even in the Memorandum of grounds of the appeal before us, there is no proper justification as to why the posts have been surrendered. In fact, the memorandum of grounds of the appeal largely proceeds to justify the appointment of the respondents 2 and 3 which has not been interfered by the learned Writ Court.

6. Therefore, considering the facts, the writ Court in our view, rightly issued direction to appoint the first respondent as a Drawing Teacher. Thus for the above reasons, we find no grounds to interfere with the order passed in the writ petition. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1) The Director of School Education,
College Road, Chennai- 600 006.
- 2) The Chief Educational Officer,
Rajaveedhi, Coimbatore.
- 3) The District Educational Officer,
Coimbatore.

+1 CC to M/s.C.S. Associate sr 13846.
+1 CC to Govt. Pleader sr 14128.

W.A.No.2443 of 2018
and CMP.No. 19702 of 2018

SV(CO)
SP(22/03/2019)