

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.32950 of 2018
and W.M.P.Nos.38194 and 38197 of 2018

Deivasigamani Aided Middle School,
Represented by its Correspondent,
Mrs.S.Sivapakiam, Kaladipettai,
Chennai 600 019

.. Petitioner

vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Fort St.George, Chennai 600 009.
2. The Director of School Education,
DPI College Road,
Chennai 600 006.
3. The Director of Elementary Education,
DPI College Road,
Chennai 600 006.
4. The Chief Educational Officer,
Education Department,
Thiruvallur.
5. The District Educational Officer,
Ambattur District,
Ambattur.
6. The Block Educational Officer,
Puzhal, Chennai 600 066

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the sixth respondent in his AA.THI.MOO.No.931/A1/2018, dated 15.11.2018 and quash the same and to direct the respondents to grant prior permission to fill up the Two Secondary Grade Teachers Vacancies created due to the retirement and approve the same and grant staff grant to the petitioner-School.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mrs.P.Kavitha
Government Advocate.

O R D E R

The Writ Petition is filed challenging the order passed by the sixth respondent in A.A.THI.MOO.NO.932/A1/2018 dated 15.11.2018.

2. Earlier, the petitioner-School made a request dated 08.11.2018 to the fifth respondent to fill up the two vacancies of the Secondary Grade Teachers as per the communal roster pursuant to G.O.Ms.No.142 dated 14.10.2009. The sixth respondent passed the impugned order dated 15.11.2018 stating that he is not in a position to grant prior permission to the petitioner-School, since there are surplus teachers in the Puzhal Region for filling up the vacant posts and in the event, the petitioner-School applies for the appointment of teachers, the same may be filled up, out of the surplus teachers available in other Schools under the same Management, by deploying them. The said order is now under challenge in this Writ Petition.

3. In the meanwhile, two of the teachers, who were found to be surplus, have filed a Writ Petition before this Court in W.P.No.347 of 2017 seeking to restore their service in the same School where they served with continuity of service, which was disposed of by this Court on 21.02.2019, wherein, in paragraphs 2 and 3, it has been held as follows:-

"2. When the matter came up for hearing on 18.02.2019, Mr.Raja, learned Government Advocate was directed to ascertain whether there are existing vacancies in any other schools where the two petitioners could be accommodated. Today i.e., 21.02.2019, a memo is filed by the learned counsel for the official respondents stating that there are two vacancies in the category of Secondary Grand Teacher that are available in Deivasignamani Middle School, Tiruvottiyur.

3. Learned counsel on behalf of the petitioner confirms that the petitioners are ready and willing to joint service immediately from 01.03.2019. The petitioners are thus, directed to be accommodated in the Deivasigamani Middle School, Tiruvottiyur from 1st of March 2019. Continuity of service as prayed for, will be provided for the interim period."

4. Pursuant to the said order, the petitioners in W.P.No.347 of 2017 were deployed to the petitioner-School and the petitioner-School has accepted them and paid the salary.

5. However, the learned counsel for the petitioner submitted that the surplus teachers have to be deployed as per the sanctioned posts, as the existing vacancies are that of the SC and ST community. Since the teachers who have been sent to fill up the vacancies, do not fall under the said categories, the petitioner sought for setting aside the impugned order.

6. Pursuant to the order of this Court, when the petitioner-School had already accepted and allowed the teachers to join the School and they have been working there, they cannot go back on their stand having acted upon the earlier order of this Court. The learned counsel for the petitioner mentions that against the order of this Court, a Writ Appeal was filed and the same is yet to be numbered.

7. As already the requirement of the petitioner-School is complied with by filling up the vacancies from the surplus teachers, nothing survives to be decided in this Writ Petition.

8. Accordingly, the Writ Petition is closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AD-IV)

//True copy//

Sub Assistant Registrar

srn

To

1. The Secretary to Government,
Fort St.George, Chennai 600 009.
2. The Director of School Education,
DPI College Road,
Chennai 600 006.

3. The Director of Elementary Education,
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4. The Chief Educational Officer,
Education Department,
Thiruvallur.

5. The District Educational Officer,
Ambattur District,
Ambattur.

6. The Block Educational Officer,
Puzhal, Chennai 600 066

+1cc to Mr.M.Md.Ibrahim Ali, Advocate SR.No.39208

+1cc to Government Pleader, High Court, Madras-104 SR.No.39919

W.P.No.32950 of 2018
and W.M.P.Nos.38194 and 38197 of 2018

SJ(CO)
GMY(24/05/2019)



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