



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.16811 of 2013
and
M.P.(MD) No.1 of 2013

G.Kothainayaki

... Petitioner

vs.

- 1.The District Elementary Educational Officer
Tirunelveli District, Tirunelveli
- 2.The Assistant Elementary Educational Officer
Palai Region, Tirunelveli District
- 3.The Secretary
Ganeshamoorthy Middle School
Keelveeraragavapuram, Tirunelveli
- 4.E.Lakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned order dated 10.09.2013 vide Na.Ka.No.4350/Aa3/2013 passed by the 1st respondent and quash the same and consequently direct the respondents 1 to 3 to promote the petitioner to the post of Headmistress of the 3rd respondent school with effect from 15.05.2013.

For Petitioner : Mr.S.Anwar Sameem

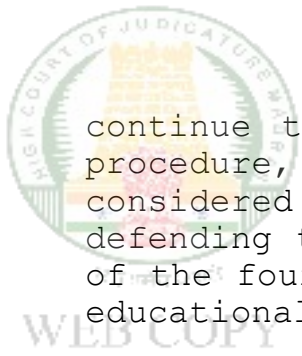
For Respondents : Mrs.S.Srimathy
Special Government Pleader for R1 & R2

Mr.G.Venugopal for R3

No appearance for R4

O R D E R

The learned counsel appearing for the writ petitioner states that the writ petitioner has taken change of vakalath and he has filed a memo to that effect. However, the existing counsel should



continue till the new counsel enters appearance. This being the procedure, which would be appropriate, this Court is of the considered opinion that it may not be a valid ground for not defending the case. However, the fact remains that the appointment of the fourth respondent has already been approved by the competent educational authorities.

2. The facts in this regard are narrated in Paragraph No.3 of the counter affidavit filed by the District Elementary Educational Officer, Tirunelveli District / first respondent, which are extracted hereunder:

"3. It is true that litigations were pending in respect of the Management of the school. One Thiru.K.G.K.Ganesamoorthy became the Educational Agency and Secretary of the School from 01.01.2012 and the same was approved by the District Elementary Educational Officer, Tirunelveli in his K.Dis.No.7915/B4/2011 dated 29-12-2011 and K.Dis.No.1615/B4/2012 dated 30-03-2012. Tmt.E.Lakshmi 4th Respondent herein, who was acting as Incharge Headmistress of the school, became qualified to hold the post of Headmistress of school by passing Bachelor of Literature in Tamil in May 2012 of Annamalai University. The School Committee of the school by its Resolution dated 12-09-2012 resolved to promote Tmt.E.Lakshmi as a regular Headmistress of the school from 12-09-2012. Since her promotion as Headmistress of the school from 12-09-2012 was in order, the District Elementary Educational Officer, Tirunelveli has approved her promotion as Headmistress of school from 12.09.2012 by his order Rc.No.4350/B3/2013 dated 10-09-2013. It is submitted that at the material point of time i.e. On 12.09.2012 the petitioner herein is not qualified to hold the post of Headmistress of the school. She has acquired Bachelor of Literature in Tamil from the Tamil Nadu Open University, Chennai only in January, 2013. Hence, she cannot have any grievance over the appointment of the fourth respondent herein as Headmistress of the school from 12-09-2012. It is not correct to state that she is senior to the 4th Respondent herein especially when she has not acquired Bachelor's degree at the material point of time to be promoted as Headmistress of the School. It is stressed that there is no point in her stating that she is senior especially when she is not qualified for promotion as Headmistress of the school on 12-09-2012 when the 4th respondent was promoted as Headmistress of the school by the Management of the school."



3. In view of the fact that the order of approval of appointment of the fourth respondent has not been challenged in the present writ petition, the relief as such sought for at this juncture cannot be granted. However, the writ petitioner is at liberty to challenge the approval of the appointment of the fourth respondent, if she has chosen to do so.

4. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

To:

1.The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

2.The Assistant Elementary Educational Officer,
Palai Region, Tirunelveli District.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-84241[F] dated 29/08/2019)

+1 CC to M/s.SPL GP (SR-84174[F] dated 29/08/2019)

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krk

JMN(12.09.2019) 3P : 5C