



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.07.2019

Delivered on : 22.07.2019

CORAM

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THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**

AND

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

W.A.(MD)Nos.581, 601 and 660 of 2019

and

W.P(MD)No.13848 of 2019

and

C.M.P(MD)Nos.4929, 4796 and 5595 of 2019

and

W.M.P(MD)No.10364 of 2019

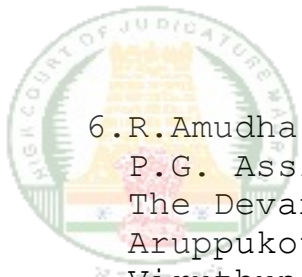
W.A.(MD)No.581 of 2019

The Devangar Higher Secondary School,
rep. by its Secretary,
Aruppukottai - 626 101,
Virudhunagar District.

.. Appellant/5th Respondent

Vs.

1. S.Manimaran ..1st Respondent/Petitioner
2. State of Tamil Nadu,
rep. by its Principal Secretary to the Government,
Department of School Education,
Fort St. George,
Chennai - 600 009.
3. The Director of School Education,
O/o the Director of School Education,
DPI Campus, Chennai - 6.
4. The Chief Education Officer,
O/o the Chief Education Officer,
Virudhunagar,
Virudhunagar District.
5. The District Education Officer,
O/o the District Education Officer,
Aruppukkottai,
Virudhunagar District.



6.R.Amudha

P.G. Assistant (Economics)

The Devangar Higher Secondary School,

Aruppukottai - 626 101,

Viruthunagar District.

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.. Respondents 2 to 6/Respondents 1 - 4 & 6

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order made in W.P(MD)No.9073 of 2018 dated 22.04.2019.

Prayer in WP(MD). 9073 of 2018 :

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 pertaining to the impugned order in Na.Ka.No.4732/A4/2017 dated 01/08/2017 on the file of the respondent No.4 and the consequential impugned order dated 18/04/2018 on the file of the respondent no.5 and quash the same as illegal and consequently for a direction, directing the respondent no.4 to grant approval to the promotion granted to the petitioner in the post of PG Assistant in Economics with effect from 01/06/2015 within the time period stipulated by this Honourable Court.

For Appellant : Mr.Veerakathiravan
Senior Counsel for
Mr.M.Thirunavukkarasu

For Respondents : Mr.T.Lajapathi Roy (for R1)

Mr.N.Shanmugaselvam
Addl. Govt. Pleader (for R2 to R5)

Mr.G.Prabhu Rajadurai (for R6)

W.A. (MD)No.601 of 2019

R.Amudha

P.G. Assistant (Economics)

The Devangar Higher Secondary School,

Aruppukottai - 626 101,

Viruthunagar District.

.. Appellant/6th Respondent

Vs.

..1st Respondent/Petitioner



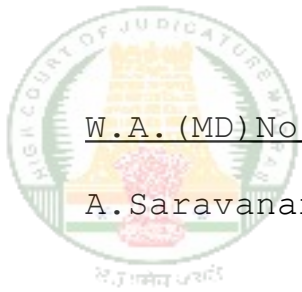
2. State of Tamil Nadu,
rep. by its Principal Secretary to the Government,
Department of School Education,
Fort St. George,
Chennai - 600 009.
3. The Director of School Education,
O/o the Director of School Education,
DPI Campus, Chennai - 6.
4. The Chief Educational Officer,
O/o the Chief Educational Officer,
Virudhunagar,
Virudhunagar District.
5. The District Educational Officer,
O/o the District Educational Officer,
Aruppukkottai,
Virudhunagar District.
6. The Devangar Higher Secondary School,
rep. by its Secretary,
Aruppukkottai - 626 101,
Virudhunagar District. .. Respondents 2 to 6/Respondents 1 to 5

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order in W.P(MD)No.9073 of 2018 dated 22.04.2019 on the file of this Court.

Prayer in WP(MD). 9073 of 2018 :

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 pertaining to the impugned order in Na.Ka.No.4732/A4/2017 dated 01/08/2017 on the file of the respondent No.4 and the consequential impugned order dated 18/04/2018 on the file of the respondent no.5 and quash the same as illegal and consequently for a direction, directing the respondent no.4 to grant approval to the promotion granted to the petitioner in the post of PG Assistant in Economics with effect from 01/06/2015 within the time period stipulated by this Honourable Court.

For Appellant	: Mr.G.Prabhu Rajadurai
For Respondents	: Mr.T.Lajapathi Roy (for R1)
	Mr.N.Shanmugaselvam
	Addl. Govt. Pleader (for R2 to R5)
	Mr.Veerakathiravan
	Senior Counsel for
	Mr.M.Thirunavukkarasu (for R6)



W.A. (MD) No. 660 of 2019

A.Saravanan

.. Appellant/3rd party

Vs.

1.S.Manimaran

..1st Respondent/Petitioner

2. The State of Tamil Nadu,
rep. by its Principal Secretary to the Government,
Department of School Education,
Fort St. George, Chennai - 600 009.

3. The Director of School Education,
O/o the Director of School Education,
DPI Campus, Chennai - 6.

4. The Chief Education Officer,
O/o the Chief Education Officer,
Virudhunagar, Virudhunagar District.

5. The District Education Officer,
O/o the District Education Officer,
Aruppukkottai, Virudhunagar District.

6. The Devangar Higher Secondary School,
rep. by its Secretary,
Aruppukkottai - 626 101,
Virudhunagar District.

7.R.Amudha
P.G. Assistant (Economics)
The Devangar Higher Secondary School,
Aruppukkottai - 626 101,
Virudhunagar District.

.. Respondents 2 to 7/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order of the learned single Judge passed in W.P(MD) No.9073 of 2018 dated 22.04.2019.

Prayer in WP(MD). 9073 of 2018 :

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 pertaining to the impugned order in Na.Ka.No.4732/A4/2017 dated 01/08/2017 on the file of the respondent No.4 and the consequential impugned order dated 18/04/2018 on the file of the respondent no.5 and quash the same as well as and consequently for a direction, directing the respondent no.4 to grant approval to the promotion granted to the



petitioner in the post of PG Assistant in Economics with effect from 01/06/2015 within the time period stipulated by this Honourable Court.

For Appellant : Mr.H.Arumugam
For Respondents : Mr.T.Lajapathi Roy (for R1)
Mr.N.Shanmugaselvam
Addl. Govt. Pleader (for R2 to R5)
Mr.Veerakathiravan
Senior Counsel for
Mr.M.Thirunavukkarasu (for R6)
Mr.G.Prabhu Rajadurai (for R7)

W.P(MD)No.13848 of 2019

A.Saravanan

.. Petitioner

Vs.

1. The Chief Education Officer,
Virudhunagar.
2. The District Education Officer,
O/o the District Education Officer,
Aruppukkottai,
Virudhunagar District.
3. The Devangar Higher Secondary School,
rep. by its Secretary,
Aruppukkottai - 626 101,
Virudhunagar District.

4.Manimaran

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the third respondent in A3/2015-16 dated 01.06.2015 promoting the 4th respondent as P.G. Assistant (Economics) and quash the same and consequently, direct the 3rd respondent to consider the promotion of the petitioner as P.G. Assistant (Economics) along with other eligible candidates.

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.N.Shanmugaselvam
Addl. Govt. Pleader (for R1 and R2)
Mr.Veerakathiravan
Senior Counsel for
Mr.M.Thirunavukkarasu (for R3)
Mr.T.Lajapathy Roy (for R4)

* * * * *

**COMMON JUDGMENT****K. RAVICHANDRABAABU, J.**

The writ appeals in W.A(MD)Nos.581, 601 and 660 of 2019 have been filed against the order passed in W.P(MD)No.9073 of 2018 dated 22.04.2019.

2.W.P(MD)No.13848 of 2019 is filed by the appellant in W.A(MD) No.660 of 2019, challenging the promotion order granted in favour of the writ petitioner in W.P(MD)No.9073 of 2018. While the writ appeals in W.A(MD)Nos.581 of 2019 and 601 of 2019 are filed by the respective respondents in the writ petition, W.A(MD)No.660 of 2019 is filed by a third party to the writ petition, who also filed the other writ petition in W.P(MD)No.13848 of 2019, seeking for the relief as stated supra.

3.For sake of convenience, we call the parties, as they were arrayed in W.P(MD)No.9073 of 2018, as parties in these writ appeals.

4.W.P(MD)No.9073 of 2018 was filed challenging the order dated 01.08.2017 of the District Educational Officer rejecting the approval of the promotion given to the petitioner as P.G. Assistant in Economics and the order, dated 18.04.2018, appointing the 6th respondent as P.G. Assistant in Economics. Consequently, the writ petitioner sought for a direction directing the District Educational Officer to grant approval to the promotion granted to the writ petitioner in the post of P.G. Assistant in Economics with effect from 01.06.2015.

5.The case of the writ petitioner before the Writ Court, in short, is as follows:-

He was appointed in the post of B.T Assistant in the fifth respondent school on 04.04.2007 and after working for a period of eight years, the school granted him promotion in the post of P.G. Assistant in Economics on 01.06.2015. The fifth respondent school forwarded the proposal to the Educational Authorities for granting approval of the petitioner's promotion. However, such proposal was rejected by the impugned order, dated 01.08.2017, on the reason that the fifth respondent school was enjoying the minority status only for five years i.e., from 28.04.2010 to 27.04.2015 and that the school was under direct payment from 28.04.2015 to 01.08.2017. The fifth respondent school, thereafter, by proceedings dated 18.04.2018, appointed the 6th respondent in the post of P.G. Assistant in Economics. Therefore, the petitioner challenged the order refusing to grant approval to his appointment as well as the order appointing the sixth respondent as P.G.



Assistant.

6. The case of the official respondents of Education Department in opposing the writ petition is as follows:-

The fifth respondent school was declared as minority institution through G.O.Ms.No.119, School Education Department, dated 28.04.2010 only for a period of five years from the date of the said G.O. Therefore, from 28.04.2015 to 31.07.2017, the school did not possess the minority status and did not have any Secretary legally entitled to hold the such position and that the school was under direct payment during the said period. The then Secretary of the School promoted the writ petitioner as P.G. Assistant on 01.06.2015, on which date, such person was not entitled to hold such post, inasmuch as his secretaryship was approved on the basis of minority status granted to the school, which ended on 27.04.2015 itself. Therefore, the promotion given to the writ petitioner on 01.06.2015 by such person was illegal. Meantime, the fifth respondent school appointed the sixth respondent, that too, without cancelling the promotion given to the writ petitioner and therefore, the said appointment was also not approved.

7. The Writ Court, after considering all the facts and circumstances, allowed the writ petition by setting aside the impugned order. The Writ Court also directed the District Educational Officer to grant approval of the promotion granted to the writ petitioner in the post of P.G. Assistant in Economics with effect from 01.06.2015. For arriving at such conclusion, the Writ Court has taken note of the order passed in W.P(MD)No.20350 of 2014 dated 24.02.2015, wherein a challenge made by the very same school against restricting its minority status only for a period of five years was considered and decided in favour of the school. The said writ petition was allowed by quashing the impugned order therein only in respect of the portion restricting the minority status for a period of five years. The said order of the Writ Court was put to challenge in W.A(MD)Nos.230 and 231 of 2018 before the Division Bench of this Court, which, inturn, dismissed the writ appeals by order dated 08.02.2018.

8. Challenging the above said order of the Writ Court, the fifth respondent school filed W.A(MD)No.581 of 2019 and the sixth respondent in the writ petition filed W.A(MD)No.601 of 2019. A third party to the writ petition filed W.A(MD)No.660 of 2019. According to the said third party/appellant, his claim for appointment to the said post was not considered by the then Secretary of the school and therefore, the appointment of the writ petitioner, who is admittedly junior to him, is bad.

<https://hcservices.equips.gov.in/MServe/13848> of 2019 is filed by the very same third party/ appellant in W.A(MD)No.660 of 2019, challenging the order of promotion granted to the writ petitioner in W.P(MD)No.9073 of



2018.

10. The sum and substance of the arguments advanced, before us, on behalf of the appellants and the writ petitioner in W.P(MD) No.13848 of 2019 are as follows:-

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On the date of promoting the writ petitioner in W.P(MD) No.9073 of 2018, the school was not enjoying the minority status and on the other hand, the same was under direct payment. Therefore, the school was not entitled to appoint/promote the writ petitioner without prior approval. Any appointment made is subject to the approval of the District Educational Officer. However, the appointment of the writ petitioner was not approved. Therefore, there is no need for passing fresh order for cancelling the promotion. The Secretary, who appointed the writ petitioner, was also not enjoying such status at the time of making the impugned appointment, since the school was not enjoying the minority status at that time. In other words, approval of the secretaryship is granted only for a limited period during the existence of minority status and therefore, beyond such period, the Secretary cannot appoint the writ petitioner. The third party appellant is senior to the writ petitioner and therefore, without considering his claim, the appointments made in favour of the writ petitioner as well as the sixth respondent are bad. When the third party appellant in W.A(MD) No.660 of 2019 has made a request on 09.03.2015 for appointment to the post of P.G. Assistant, without considering such request, the impugned appointments were made, which is in violation of Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules.

11. On the other hand, the learned counsel appearing for the writ petitioner contended as follows:-

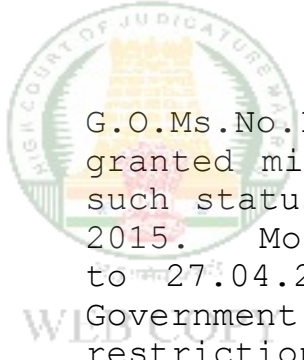
The issue involved in this case is revolving around the minority status granted to the school. In view of the order passed by this Court in W.P(MD) No.20350 of 2014 dated 24.02.2015 confirmed in W.A(MD) Nos.230 and 231 of 2018 dated 08.02.2018, all the points raised by the appellants are liable to be rejected. Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, is not applicable to the minority institution. Therefore, the claim of the writ petitioner in W.P(MD) No.13848 of 2019 is also liable to be rejected.

12. Heard both sides and perused the materials placed before this Court.

13. For sake of further clarify, we will call the contesting parties/teachers by their names.

<https://hcservices.ecourts.gov.in/hcservices/>

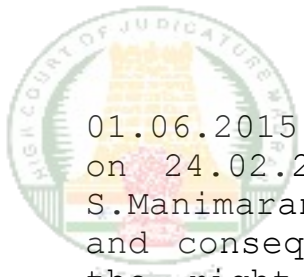
14. The Devangar Higher Secondary School, Aruppukkottai is a linguistic minority institution. The Government of Tamil Nadu by



G.O.Ms.No.119, School Education Department, dated 28.04.2010, granted minority status to the said school, however, by limiting such status only for a period of five years from the year 2010 to 2015. More specifically, such status was granted from 28.04.2010 to 27.04.2015. The school challenged the said order of the Government in W.P(MD)No.20350 of 2014, aggrieved only against the restriction of the minority status for a limited period. The Writ Court disposed said writ petition along with other connected writ petitions by passing a common order on 24.02.2015, thereby allowing the writ petitions and quashing the impugned order only insofar as the portion restricting the minority status for a period of five years. Thus, it is evident that by virtue of the said order passed in the said writ petition, the school is entitled to enjoy the minority status continuously without any period restriction from the date of the issuance of the said G.O. The order passed in the said writ petition though was put to challenge by the Government in W.A(MD)Nos.230 and 231 of 2018, the Division Bench of this Court, by order, dated 08.02.2018, dismissed the writ appeals. Therefore, it is evident that the school is enjoying the minority status continuously from 28.04.2010 onwards and consequently, the secretaryship approval granted to the then Secretary is deemed to have been continued.

15.S.Manimaran (petitioner in W.P(MD)No.9073 of 2018) was working as B.T Assistant in the said school from 04.07.2007 onwards. He was granted promotion to the post of P.G Assistant in Economics on 01.06.2015 in a sanctioned post by the then Secretary. When the said promotion was sought to be approved, the Education Department rejected the said proposals only on the reason that on the date of appointment of S.Manimaran, the school was not enjoying the minority status and on the other hand, it was under direct management. It was also contended that since the minority status was restricted for a period of five years, the Secretaryship also lapses by the end of the period of such minority status. Therefore, it is contended that such person cannot appoint the said S.Manimaran.

16.First of all, in this case, it is to be noted that the Education Department has not chosen to challenge the order passed by the Writ Court. Therefore, it is evident that they have accepted the said order. It is pertinent to note certain relevant dates which would falsify the claim of the appellants. Though the minority status was granted to the school for a period from 28.04.2010 to 27.04.2015, in view of the order passed in W.P(MD) No.20350 of 2015 dated 24.02.2015, the school is entitled to enjoy the minority status without any period restriction. Needless to state that when such an order was made by the Writ Court on 24.02.2015 allowing the writ petition and quashing the period of minority status, the benefit derived out of such order would flow from the date of the said G.O dated 28.04.2010. S.Manimaran was admittedly appointed to the post of P.G. Assistant (Economics) on



01.06.2015. By that time, already the Writ Court passed the order on 24.02.2015. Therefore, on the date of the appointment of S.Manimaran, apparently the school is enjoying the minority status and consequently, the person who appointed him, is also enjoying the right of secretaryship and thus, it is evident that the appointment of S.Manimaran is a valid appointment. When the school is a minority institution, the question of following the procedure contemplated under Rule 15(4) does not arise. Therefore, the claim of the third party appellant, namely, A.Saravanan does not have any merits. In fact, it is to be noted at this juncture that the impugned order of rejecting the approval of S.Manimaran's appointment was passed on 01.08.2017, without reference to or considering the scope of the order already passed by this Court in W.P(MD)No.20350 of 2014 dated 24.02.2015.

17.As we found that the appointment of S.Manimaran is valid appointment and consequently, he is entitled to get approval from the date of his appointment, the subsequent appointment of R.Amudha made to the very same post, cannot be sustained. It is to be noted further that the school has chosen to appoint R.Amudha in the very same post without even cancelling the appointment of S.Manimaran. Even otherwise, as we found that the appointment of S.Manimaran is valid appointment, R.Amudha's subsequent appointment though made by direct recruitment to the very same post, is illegal and thus cannot be sustained. The Writ Court has rightly considered all these aspects and allowed the writ petition, with which, we find no infirmity or irregularity. Since we find that the school is a minority school enjoying such minority status, application of Rule 15(4) of the said Rules does not arise and consequently, the claim made by the third party appellant /the writ petitioner A.Saravanan also cannot be entertained.

18.Accordingly, all these writ appeals and the writ petition in W.P(MD)No.13848 of 2019 are dismissed. The official respondents are directed to approve the appointment of S.Manimaran viz., the writ petitioner in W.P(MD)No.9073 of 2018 within a period of six weeks and pay him all the monetary benefits. We further direct the school to pay salary to R.Amudha from its own fund for the period she has already worked, as the Education Department is not bound to pay any salary to her for the said period. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

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To

1. The Principal Secretary to the Government,
Department of School Education,
Fort St. George,
Chennai - 600 009.

2. The Director of School Education,
O/o the Director of School Education,
DPI Campus, Chennai - 6.

3. The Chief Education Officer,
O/o the Chief Education Officer,
Virudhunagar, Virudhunagar District.

4. The District Education Officer,
O/o the District Education Officer,
Aruppukkottai,
Virudhunagar District.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-76534[F] dated
22/07/2019)

+1cc to G.PRABHU RAJADURAI, Advocate in Sr.No. 76809

+1cc to MR.T.LAJAPATHI ROY, Advocate in Sr.No. 76954

+1cc to MR.H.ARUMUGAM, Advocate in Sr.No. 76813

+1cc to VEERA ASSOCIATES, Advocate in Sr.No. 76578

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-76941 TO 76944[F] dated
23/07/2019)

Judgment made in
W.A. (MD) Nos.581, 601 and 660 of 2019
and
W.P (MD) No.13848 of 2019
and
C.M.P (MD) Nos.4929, 4796 and 5595 of 2019
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