



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.18654 of 2019

and

W.M.P. (MD) Nos.15019 and 15020 of 2019

A.Johnson Irudhayaraj

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.

2.The Director of Elementary Education,
College Road, Chennai-600 006.

3.The District Educational Officer,
Sivagangai, Sivagangai District.

4.The Block Educational Officer,
Illayankudi, Sivagangai District.

5.The Correspondent,
St. Antony's Primary School,
Kalladithidal, Anandur,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order issued by the third respondent District Educational Officer in Na.Ka.No.579/a2/2019, dated 14.08.2019 (received on 22.08.2019) in cancelling the approval of appointment and further directing the petitioner to refund the salary to the government account in single installment quash the same.

For Petitioner : Ms.A.Amala

For R1 to R4 : Mr.M.Karuppasamy,
Government Advocate.

ORDER

The present Writ Petition is filed, seeking for a Writ of Certiorari, to quash the impugned order issued by the third respondent District Educational Officer in Na.Ka.No.579/a2/2019, dated 14.08.2019 (received on 22.08.2019), in cancelling the approval of appointment and further directing the petitioner to refund the salary to the government account in single installment.

2.The petitioner was appointed as Secondary Grade Teacher in the fifth respondent School and he is working in the sanctioned post



with effect from 16.06.2016 in the vacancy arose, on account of the transfer of one K.Stephen, on 15.06.2016. The fifth respondent school was established and administered by the R.C.Diocese of Sivagangai. It is a religious minority educational institution. The petitioner possess the required qualification for the post of Secondary Grade Teacher and passed Teachers Eligibility Test, by securing 100 marks. The petitioner continues to work in the fifth respondent school, without any break and the utmost satisfaction of the Management.

3.After the appointment of the petitioner, the fifth respondent sent a proposal to the then DEEO on 16.06.2016, requesting to approve the appointment of the petitioner. The DEEO has rejected the proposal sent by the fifth respondent, for approval. The fifth respondent has filed W.P(MD)No.15334 of 2017, challenging the said order of rejection. While the said writ petition was pending, the petitioner has approached the respondents 3 and 4 for approval of his appointment. The third respondent asked the fifth respondent to send a proposal to him. The fifth respondent sent the proposal to the third respondent through the fourth respondent, seeking to approve the appointment of the petitioner. The fourth respondent recommended to the third respondent, by the proceedings in Na.Ka.No.621/a1/2019, to approve the appointment of the petitioner, subject to the result of the Writ Petition filed by the fifth respondent. This Court, by a common order, dated 07.03.2019, in W.P(MD)Nos.15334 and 15335 of 2017, directed the authorities to grant approval at the earliest.

4.After receipt of the order of this Court, the third respondent has cancelled the approval granted to the petitioner. Hence, the petitioner has come out with the present Writ Petition.

5.The learned counsel appearing for the petitioner contended that when this Court has directed the second respondent to approve the appointment of the petitioner at the earliest, the third respondent has cancelled the approval granted earlier. The impugned order passed by the third respondent is contrary to the order of this Court, dated 07.03.2019 and non-application of mind. The reason given by the third respondent for cancelling the approval of the writ petitioner is invalid and the respondents are not paying salary to the petitioner and prayed for allowing the Writ Petition.

6.The learned Government Advocate appearing for the respondents 1 to 4 contended that approval for appointment was granted, subject to the result of the Writ Petition filed by the fifth respondent. The respondents 1 to 4 filed Writ Appeal, challenging the order passed by this Court and it is in SR Stage. In view of the same, the impugned order is valid and legal and



7. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record carefully.

8. From the materials on record, it is seen that the appointment of the petitioner was approved, subject to the result of the Writ Petition in W.P.(MD)No.15334 of 2017, filed by the fifth respondent. This Court, by an order, dated 7.3.2019, directed the respondents to grant approval for appointment to the petitioner at the earliest. The third respondent instead of granting approval or ratifying the approval granted earlier, has cancelled the order of approval. The impugned order, cancelling the approval, is not only contrary to the order of this Court, dated 07.03.2019 in W.P(MD) No.15334 of 2017, but also in deliberate violation of the order of this Court. Unless the order of this Court, dated 7.3.2019, is set aside by a Division Bench or by the Hon'ble Apex Court, the third respondent is bound to obey the order of this Court and grant approval for appointment to the petitioner.

9. For the above reason, the impugned order passed by the third respondent in Na.Ka.No.579/a2/2019, dated 14.08.2019, is quashed and the third respondent is directed to approve the appointment of the petitioner and release the salary to the petitioner together with arrears.

10. With the above observations, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-600 009.

2. The Director of Elementary Education,
College Road, Chennai-600 006.



3.The District Educational Officer,
Sivagangai, Sivagangai District.

4.The Block Educational Officer,
Illayankudi, Sivagangai District.

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+1 CC to M/s.A.AMALA, Advocate (SR-91320[F] dated 04/10/2019)

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