



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

Cont.P.(MD)No.461 of 2018
in REV.APLC.(MD)No.35 of 2017
and W.P.(MD)No.1296 of 2017

S.Juliya,
Secondary Grade Teacher,
Manapad,
Tirunelveli District.

... Petitioner/ Petitioner/
Petitioner

Vs.

1.Samuvel,
District Educational Officer,
Tirunelveli District.

2.Nambi Durai,
Assistant Elementary Educational Officer,
Udangudi,
Tuticorin District.

... Respondents/ Respondents

PRAYER: Petition is filed under Section 11 of Contempt of Courts Act, for the willful disobedience of the order dated 27.06.2017 in Rev.Appl.(MD)No.35 of 2017 in W.P.(MD)No.1296 of 2017 passed by this Court.

Prayer in WP(MD). 1296/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent herein vide Na.Ka.No. 239/A3/2016 dated 02.11.2016, Quash the same and further direct the respondents herein to approve the appointment of petitioner as Secondary Grade Teacher in the 3rd respondent school w.e.f. 13.04.2016 and disburse grant in aid towards salary and other attendant benefits.

PRAYER IN Rev.Appl.(MD)No.35 of 2017

Review Application filed under Order 47 Rules 1 and 2 read with Section 114 of the Civil Procedure Code, against the order dated 23.02.2017 in W.P(MD)No.1296 of 2017 on the file of this Hon'ble Court.



For Petitioner : Mr.V.Paneer Selvam

For Respondents : Mr.N.Shanmuga Selvam, AGP

O R D E R

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This Contempt Petition is filed alleging willful disobedience of the order dated 27.06.2017 passed in Rev.Appl.(MD)No.35 of 2017 in W.P(MD)No.1296 of 2017 by this Court.

2.The learned counsel appearing for the respondents submitted that as against the order of this Court dated 27.06.2017 a Writ Appeal has been filed in W.A.(MD) No.1461 of 2018, which is pending consideration.

3.In case the writ appeal is dismissed or the order of the learned Single Judge is modified, on both grounds, the contempt proceedings will lie only before the Division Bench and not before the Single Judge. If the writ appeal is allowed, then the writ petitioner may not get any relief. If any order is passed in the writ appeal, either confirming or modifying as stated supra, the remedy available to the petitioner is to file a Contempt in the Writ Appeal and not in the Writ Petition, unless and until the Apex Court specifically directs the High Court to decide the issue. Taking note of the principle laid down in **Kunhayammed** case reported in 2000 (6) SCC 359 and **K.K.Dineshan** case reported in **2014 16 SCC 88**, the relief sought for by the petitioner cannot be granted and the Contempt Petition is closed. It is open to the petitioner to work out his remedy depending upon the result in the Writ Appeal.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

To

1.Mr.Samuvel,

District Educational Officer, Tirunelveli District.

2.Mr.Nambi Durai,

Assistant Elementary Educational Officer,
Udangudi, Tuticorin District.

+1 CC to M/s.GP (SR-85862[F] dated 09/09/2019

Cont.P. (MD) No.461 of 2018

06.09.2019

NBJ

MS/04.10.2019/2P.4C

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