

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12/3/2020
C O R A M

THE HON'BLE MR.JUSTICE V.PARTHIBAN
Writ Petition No.1356 of 2019

J. Kanchana ... Petitioner

Vs

1. The Director of Elementary Education
DPI Campus, College Road
Chennai 600 006.
2. The District Educational Officer
Tiruvannamalai
Tiruvannamalai District.
3. The Block Educational Officer
Chengam Block
Thiruvannamalai District.
4. The Correspondent
Aided Primary School
Paliyapettai, Chengam Taluk
Tiruvannamalai District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the fourth respondent to forward the proposal to the second and third respondents for approval of appointment of petitioner in the post of Secondary Grade Teacher in the fourth respondent School from the date of appointment on 21/4/2017 and consequently, direct the second and third respondents to pass appropriate orders for approval of appointment of petitioner from the date of initial appointment with all consequential and other attendant benefits, by considering the representation submitted by the petitioner dated 19/3/2018, within a time frame fixed by this Court.

For petitioner ... Mr.G.Sankaran

For respondents ... Mr.P.Raja
Government Advocate
for R.R.1 to 3.
No appearance for R.4.

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O R D E R

The writ petition has been filed by the petitioner, praying for the issuance of a writ of mandamus, to direct the fourth respondent to forward the proposal to the second and third respondents, for approval of appointment of petitioner, in the post of Secondary Grade Teacher, in the fourth respondent School and consequently, direct the second and third respondents to pass appropriate orders for approval of appointment of petitioner from the date of initial appointment with all consequential and other attendant benefits, by considering the representation submitted by the petitioner dated 19/3/2018.

2. The petitioner is qualified with Diploma in Teacher Education (D.T.Ed). The petitioner has also passed Teacher Eligibility Test in August 2013. According to the petitioner, she registered her name in the Employment Exchange and for her qualification, she was eligible for consideration for appointment to the post of Secondary Grade Teacher.

3. The fourth respondent School is the Government Aided Institution, receiving grant-in-aid from State Government, governed by the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules framed thereunder. In the said School, vacancy in the post of Secondary Grade Teacher arose due to resignation of an incumbent Tmt.S.Tamilarasi, on 1//4/2017. In order to fill up the vacancy, the fourth respondent School has conducted selection by notifying the vacancy through paper advertisement. The petitioner participated in the selection and was ultimately selected and appointed to the post of Secondary Grade Teacher, vide appointment order, dated 21/4/2017. She joined duty on the same day.

4. According to the petitioner, the post in which she was selected and appointed was a sanctioned post. She has been working as Secondary Grade Teacher in the fourth respondent School from the date of appointment, i.e., on 21/4/2017 and signing the Master Attendance duly endorsed by the second and third respondents. After her appointment, she was informed by the fourth respondent Management that a proposal was forwarded by the School to the second respondent through third respondent. However, no approval was forthcoming from the authorities.

5. In the above circumstances, petitioner approached this Court by filing a writ petition in W.P.No.11813 of 2018 seeking direction to the second and third respondents to pass orders on the proposal said to have been submitted by the School Management. In writ petition No.11813 of 2018, on behalf of the respondents 1 to 3, counter affidavit was filed stating that no

proposal was forwarded by the fourth respondent School Management and therefore, considering the proposal did not arise at all. Writ petition is still pending for consideration.

6. Since according to the official respondents, School Management did not forward any proposal, seeking an approval for the appointment of the petitioner, petitioner is constrained to move the present writ petition, seeking direction to the fourth respondent to forward the proposal to the second and third respondents. On such proposal being forwarded, the second and third respondents may pass appropriate orders.

7. In response to the notice filed in the instant writ petition, Mr.P.Raja, learned Government Advocate takes notice for the respondents 1 to 3. Counter affidavit has been filed on behalf of the respondents 1 to 3.

8. In the counter affidavit, it is admitted that the petitioner was appointed on the resignation of the then incumbent Tmt.S.Thamilarasi and the copy of the appointment order was also forwarded to the second and third respondents. In the counter, it is further stated that the fourth respondent School has not submitted any proposal containing the details of appointment. Para 7 of the counter affidavit, reads as under:-

"7. It is submitted that the fourth respondent after appointment the petitioner out to have submitted proposal to the second respondent, through third respondent for approval. The proposal to be submitted by the fourth respondent should contain the particulars such as to whether (i) the petitioner was sponsored by the District Employment Exchange, (ii). the rule of reservation was followed, (iii). on the date of appointment there is requisite student's strength, (iv). the petitioner is in possession of requisite educational qualification prescribed in Annexure 5, Rule 15 (6) of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and 1974 Rules made thereunder, (v). the petitioner has passed Teacher Eligibility Test (TET) and any agreement in Form 7 A was executed between the petitioner and the School Management as required.

9. In the counter, it is also stated that if any proposal from the fourth respondent is received, fulfilling the conditions stipulated, the said proposal would be considered by the second and third respondents and appropriate orders would be passed thereon.

10. Although notice has been issued and served on the fourth respondent School and the name being printed in the cause list, today there is no appearance.

11. In the above circumstances, Mr.G.Sankaran, learned counsel for the petitioner would submit that for some reason, the Management has not forwarded any proposal for which the petitioner cannot be deprived of her valuable right to be considered for approval of her appointment. According to the learned counsel, her appointment in all respect is a regular appointment against the sanctioned vacancy and

therefore, approval is automatic. Learned counsel would further submit that the second and third respondents may be directed to call for the proposal from the fourth respondent School.

12. Despite notice being served on the fourth respondent Management, the Management does not choose to appear before this Court. The petitioner has filed two writ petitions for the same cause of action, in view of the conduct of the School Management. In the counter affidavit also, facts are not disputed.

13. Considering the submissions of the learned counsel and also the averments as contained in the counter affidavit of the respondents 1 to 3, writ petition is disposed of as under:-

Respondents 1 to 3 are directed to issue necessary orders and call for the proposal from the fourth respondent School within a period of four weeks from the date of receipt of a copy of this order. On such proposal being received, respondents 1 to 3, shall take a decision on merits and in accordance with law and pass appropriate orders within a period of four weeks thereafter.

No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar

// True Copy//

WEB COPY

Sub Assistant Registrar

mvs.

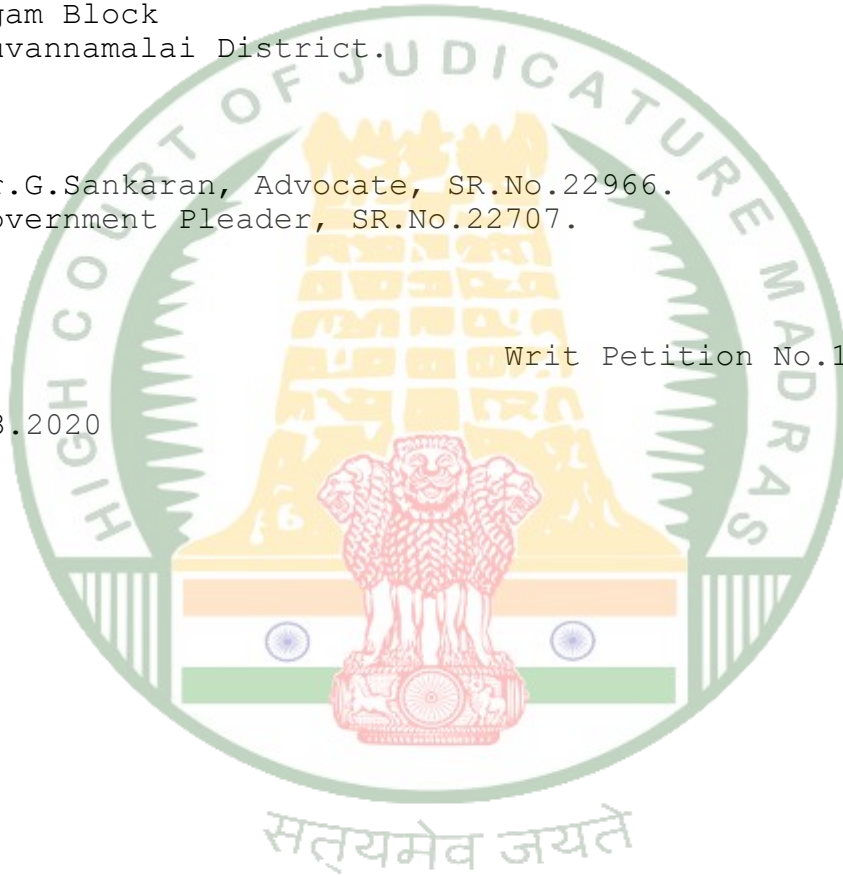
To

1. The Director of Elementary Education
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2. The District Educational Officer
Tiruvannamalai
Tiruvannamalai District.
3. The Block Educational Officer
Chengam Block
Thiruvannamalai District.

+1cc to Mr.G.Sankaran, Advocate, SR.No.22966.
+1cc to Government Pleader, SR.No.22707.

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KS (CO)
CSR: 16.03.2020



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