

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.16741 of 2013
and
M.P.Nos.1 & 2 of 2013

Mrs. P.Kalaimani

.. Petitioner

- Vs -

1. The Director of Elementary Education,
Nungambakkam,
College Road,
Chennai 600 006.
2. The District Elementary Educational
Officer, Nagapattinam
Nagapattinam District.
3. The Assistant Elementary Educational
Offier, Thalaigayiru,
Nagapattinam District.
4. The Secretary
Saraswathi Aided elementary School,
Koilpathu Village,
Thalaigayiru Union,
Nagapattinam District.

.. Respondents

Writ petitions filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the respondents to promote the petitioner as Head Master for the fourth respondent school based on petitioner representation dated 25.4.2013

For Petitioner : No appearance

For Respondent : Mr.S.Suresh Kumar, G.A. For RR1 to 3

: Mr.Sivagnana Sambandham for
M/S.Pa.Kadirvel for R4

ORDER

This petition was filed by the petitioner, to direct the respondents to promote the petitioner as Head Master for the fourth respondent school based on petitioner representation dated 25.4.2013.

2.The Case of the petitioner is that the petitioner belongs to most backward class community and she was appointed as Secondary Grade Teacher in the 4th respondent school in the year 1991, which is an aided elementary school and it was started by her father in law one Mr.Kaliappan, and the said school was serving for the downtrodden people for the past several decades. The petitioner has completed under graduate in history and also completed Bachelor degree in Education. It is the averment of the petitioner that after demise of her father in law, her mother in law maintained the above said school. Thereafter, the elder brother of her husband was serving as the Secretary of the above said school upto the year 2010 and there was a land dispute between her husband and the 4th respondent, which resulted in several litigations. However, the petitioner did not partake herself in any of those problems and continued her services without any remarks. However, due to personal enmity, the 4th respondent secretary suspended the petitioner on 02.07.2010 and, thereafter, the suspension order was withdrawn by the 4th respondent by proceedings dated 26.10.2010. In the mean while, the Head Master of the above said school retired from service in the year 2013 and as the senior most person, the petitioner is entitled to be posted as Headmaster. However, inspite of her request to the 4th respondent to promote her as a Headmaster for the above said school, no order has been passed by the 4th respondent and aggrieved by the said act, the present petition has been filed.

3. When the matter is taken up for hearing, there is no representation on behalf of the petitioners. Therefore, this Court proceeded to hear the case on merits. In the light of the order which this Court proposes to pass, the absence of the counsel for the petitioner would be in no way a detriment to the case of the petitioner.

4.A counter affidavit has been filed on behalf of the 4th respondent school, wherein all the averments of the petitioner have been denied.

5.This Court perused the entire materials available on record. On persual of records, it is seen that the petitioner claimed promotion as per Rule 15(4) of the Tamil Nadu Recognised Private School Regulation Act and further she claims that she is the senior most person and, therefore, entitled to the said post.

6. The facts in the case are not in dispute. Even as per the averment of the petitioner, the petitioner is closely related to the 4th respondent. The claim of the petitioner is to the post of Headmaster. It is to be stated that the post of Head master is governed by the relevant Rules and relevant Acts. As per Rules and Act, a person is working in the said school is entitled to be considered based on merits and ability and seniority, if merit and ability are almost equal. The promotion to the post of Headmaster is as per rules, have this Court cannot unilaterally direct the respondents to promote the petitioner to the post of Headmaster, which post is governed by the relevant Act and Rules. Unless the Education authorities and the 4th respondent school take a decision with regard to appointment and only if any such decision is against the rules, this Court could interfere in the same. Mere non filling of the post of Headmaster with the petitioner cannot be a ground to direct the respondents to grant promotion to the petitioner, more so when the post of Headmaster is a selection post.

7. For the reason aforesaid, this Court is not inclined to acceded to the prayer of the petitioner and accordingly this writ petition is dismissed. However, it is open to the writ petitioner to work out her remedy in a manner known to law, if so advised. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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Nungambakkam,
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+1cc to the Government Pleader in SR.NO..29004

W.P. NO.16741/2013

SVI (CO)
RV (30/9/2020)



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