

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.6288 of 2020

Zamindar Higher Secondary School,
rep. by its Secretary N. Subramanian,
Kattuputhur(PO), Thottiyam(Tk),
Tiruchirappalli District-621 207

..Petitioner

Vs.

1. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006
2. The Joint Director,
Higher Secondary,
DPI Campus, College Road,
Chennai-600 006
3. The District Educational Officer,
Musiri, Trichy.

..Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to pass the orders on the petitioner representation dated 25.09.2019 and reminder dated 14.02.2020 and 28.02.2020 in accordance with law.

For Petitioner .. Mr.K.M.Vijayan Associates
For Respondents .. Mr.P.Raja, GA

ORDER

This matter is taken up through web hearing.

2. This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to pass the orders on the petitioner's representation dated 25.09.2019 and reminders dated 14.02.2020 and 28.02.2020 in accordance with law.

3.The brief facts which gave rise to the filing of the Writ Petition are as follows:

3.1. The petitioner is a Higher Secondary School, which is stated to have been established in the year 1903. According to the averments contained in the affidavit that there were spate of litigations among the family members in regard to the control of Management of the School, culminating in taking over the management of the school by the Government. According to the averments, ultimately the issue was resolved by order passed by this Court in WA.Nos.511 and 537 of 2019. After the Management is handed over to the present Secretary, the school has been initiating measures to improve the school in terms of infrastructure and the staff Management.

3.2. In the said circumstances, the Management found that there was a vacancy in the Maths discipline and the petitioner School had therefore, represented to the education authority on 25.09.2019 seeking permission to fill up the post of Maths teacher, which according to the school, it has been lying vacant since 2017.

3.3.According to the school Management, the post of Post Graduate (Maths) is a sanctioned post available in the school since 1978. In the absence of Maths teacher in the school, the students' interest is being affected. Since no action has been forthcoming from the respondents, the petitioner is before this Court seeking direction to the authority to pass orders on petitioner's representation dated 25.09.2019.

4. Notice was ordered in the Writ Petition and in response to the notice, Mr.P.Raja, learned Government Advocate has entered appearance on behalf of the respondents and a detailed counter affidavit has also been filed.

5. In the counter affidavit, it is stated in detail that in Trichy District, there are surplus teachers available in various Government aided schools and the post of PG Assistant (Maths), which is admittedly lying vacant in the petitioner school has to be filled up only by way of deployment among the surplus teachers available in the District. In fact, according to the counter affidavit, the Management of the aided schools were directed to deploy surplus teachers to the needy schools by way of deputation in terms of the Government order. But no school in region was interested in taking surplus teacher from other school. According to the counter affidavit, the petitioner school was also not interested in deploying

surplus teacher i.e., Post Graduate Assistant (Maths), which was identified by the education authority in the National College Higher School, Tiruchirappalli.

6. Moreover, it is stated that various aided schools in the region had challenged the Government Order directing redeployment and a Division Bench of this Court which heard the matter in WP.No.31575 of 2019 & WMP: 31774 of 2019 has passed an interim order dated 08.11.2019 which reads as under :

"A perusal of the information which has been placed before this Court and as made available by the concerned Department would disclose that there are very many surplus teachers available for deployment and despite that recruitments are taking place and as a consequence, the Government is put to heavy financial burden.

In the light of the above facts and circumstances, the authorities are directed to take immediate and necessary steps to deploy the surplus teacheres in the Government run Middle Schools and High Schools and till such deployment is completed, there cannot be any recruitment to the said post, until further orders."

7. In compliance with the above directions of the Division Bench, the counter affidavit also states that a portion of the interim direction as extracted above ,was subsequently modified. In any case, it is averred in the counter affidavit that the challenge and issue of deployment of surplus teacher is pending finalization before this Court and in that circumstances, the request for approval of PG Assistant (Maths) for fresh recruitment in the petitioner school could not be taken up.

8. The learned counsel appearing for the petitioner, notwithstanding the inability of the Department to grant approval which is expressed in detail in the counter affidavit, attempted to argue that in the absence of Maths teacher, the school is deprived of adequate staff strength, more over, the learned counsel insisted that the authority concerned is under obligation to pass orders on the school's representation.

9. This Court is unable to appreciate the arguments of the learned counsel for the petitioner, since a detailed counter affidavit has been filed explaining that in view of the prevailing situation in Tiruchirappalli and also the pending

challenge before this Court on the issue of deployment of surplus teachers in the region, the authority cannot take any decision in regard to the proposals submitted by the petitioner school. Moreover, it is averred clearly that the petitioner school did not accommodate surplus teacher identified by the authority. In any case, without going to those controversies, the direction as sought in this Writ Petition cannot be granted at this stage in the circumstances as explained above. However, it is always open to the Management to approach the authority concerned for finding a solution to the issue of not having Maths teacher in the school, the school Management may request the authority for early remedy to the problem faced by the school. However, in the light of the averments contained in the counter affidavit, no blanket direction could be given to the authorities.

10. Therefore, the Writ Petition is liable to be dismissed and accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006

2. The Joint Director,
Higher Secondary,
DPI Campus, College Road,
Chennai-600 006

3. The District Educational Officer,
Musiri, Trichy.

+1cc to Mr.K.M.Vijayan Associates in SR.NO..30714

+1cc to the Government Pleader, in SR.NO..30769

W.P.No.6288 of 2020

EV(CO)
RV(16/10/2020)