

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :28.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.33153 of 2013

and

W.MP.Nos.30673 of 2016 & 5897 of 2017

V.Indira

.... Petitioner

- Vs -

- 1.The Secretary to the Government,
School Education Department,
Fort. St. George, Chennai-600 009.
 - 2.The Director Elementary Education,
College road,
Chennai 600 006.
 - 3.The Director of Teacher Education,
Research and training,
Kamarajar Salai,
Krishnagiri District.
 - 4.The District Elementary Educational Officer,
krishnagiri, Krishnagiri District.
 - 5.The Assistant Elementary Educational Officer,
kaveripattinam Union,
Krishnagiri Taluk,
Krishnagiri District.
- सत्यमेव जयते ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in Na.Ka.No.004803/A3/2012 dated 31.10.2013 and quash the same and consequently direct the respondents to permit the petitioner to continue as a secondary grade teacher in Panchayat Union Elementary School, Kundalapatti, Kaveripattinam Union, Krishnagiri Taluk and District.

For Petitioner : M/S.K.Balaji

For Respondents : Mr.S.Sureshkumar, G.A., (Education)

ORDER

This Writ petition has been filed by the petitioner, to call for the records relating to the order passed by the third respondent in Na.Ka.No.004803/A3/2012 dated 31.10.2013 and quash the same and consequently direct the respondents to permit the petitioner to continue as a secondary grade teacher in Panchayat Union Elementary School, Kundalapatti, Kaveripattinam Union, Krishnagiri Taluk and District.

2. The case of the petitioner is that she belongs to Backward class community and after completion of higher education, she has joined the Diploma in Teacher Education in the year 1997 at Karnataka State and thereafter completed in the year 1999 and obtained Diploma Certificate issued by the Karnataka Secondary Education Examination Board. Thereafter, she applied for the Evaluation Certificate from the Director of Teacher Education Research and Training , Chennai/3rd respondent issued an Evaluation Certificate in his proceedings dated 13.02.2002 and she registered the same in the District employment Office, Krishnagiri and was appointed as a Secondary Grade Teacher in the year 2004 in Krishnagiri District, Burgur Union in Panchayat Union Elementary School at Keezhpoonguruthi village. On completion of probation, the respondent issued a communication dated 09.10.2010, declaring the probation of the petitioner on verifying the entire educational records.

2.1. While so, a complaint letter was received as against the petitioner on 5.6.2012 and on receipt of the complaint letter, the District Elementary Education Officer of Krishnagiri District was instructed to enquire into the matter and send a detailed report, vide order dated 02.07.2012 to the Director of State Council of Educational Research and Training Chennai-6. The fourth respondent issued a communication dated 08.08.2012 suspecting the educational certificates of the petitioner as bogus one as she had obtained below 50% in Karnataka teacher training. As a result the respondents conducted enquiry regarding the genuineness of the evaluation certificate produced by the petitioner. The eligible criteria being 50% of marks to be secured in each subject in the first and second year of the D.T.Ed course, the petitioner had not secured 50% marks in 3 subjects in the 1st year of the D.T.Ed course and therefore, allegation was made that the evaluation certificate submitted by the petitioner in K.Dis.No.3842/C3/2002, dated 13.03.2002 was found to be bogus. Consequent upon the same, on 31.10.2013, the

District Elementary Educational Officer was instructed by the Director, SCERT, Chennai, to initiate disciplinary action and criminal action against the petitioner. Aggrieved by the same, the petitioner filed WP.No.16749 of 2013 before this Court and this court by its order dated 21.06.2013, disposed the petition with a direction to the 3rd respondent therein, to pass order on the representation dated 15.05.2013 of the petitioner sent pursuant to the show cause notice dated 06.05.2013, within a period of six weeks from the date of receipt of copy of this order. Accordingly, all the reports, certificates and explanation submitted by the petitioner, enquiry report submitted by the Joint Director (Admin) other connected records and the orders of this Court were duly scrutinized by the Director of State Council of Educational Research and Training, Chennai -6, and it was found that the evaluation certificate submitted by her was not issued by the respondent in favour of the petitioner and was found to be bogus. Challenging the same, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the petitioner did not commit the offence as alleged by the respondents. Admittedly the petitioner secured less than 50% of marks, which necessitated subjecting the certificate obtained by the petitioner to evaluation process by the Director of School Education Department and after evaluation, evaluation certificate was issued, which was produced by the petitioner before the concerned authority. The Government of Tamil Nadu vide G.O.Ms.No.1236 had fixed the criteria of 50% for the certificates obtained in Karnataka Teacher Training for issuing evaluation certificate in Tamil Nadu and consequent upon the same, relaxation was granted to Vetriyazhagan and Naxeema vide G.O.Ms.No.1196 Education Department dated 03.12.1992. It is the further submission of the learned counsel for the petitioner that several similarly placed candidates filed writ petitions and the same was allowed by this Court, against which the State preferred appeal, which was dismissed on 19.10.2005 and directed the authorities to approve the appointments and directed to pay the salary, without any further delay. On the heels of the same, WP.No.11770 of 2000 by other similarly placed persons, which was also allowed by this Court on 20.02.2007. He further submitted that the 3rd respondent has failed to consider the order of the Division Bench which will stand applicable to all similarly placed persons, including the petitioner and the order passed by the 3rd respondent without taking into consideration the order passed by the Division Bench is contrary to law and, therefore, the same deserves to be set aside.

4. Per contra, learned Government Advocate appearing for the respondent filed a detailed counter affidavit, while did not refute the contention put forth by the petitioner, however submitted that a suspicion has got emerged whether the Evaluation order dated 13.02.2002 was a genuine one or not, which led to the enquiry proceedings ending in holding the evaluation certificate filed by the petitioner as a bogus one. Once it is found that the certificate is a bogus one, action has been taken for the misrepresentation and fraud and, therefore, no interference is warranted with the order passed by the respondents.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. In the present case, based on the complaint received against the petitioner, verification process was started, which ended in the finger of guilt being pointed on the petitioner. It is the stand of the respondents that the evaluation certificate was not issued by the competent authorities. Though a person who has suppressed the material information cannot claim unfettered right for appointment or continuity in service but he has a right not to be dealt with arbitrarily and exercise of powers has to be in reasonable manner with objectivity having due regard of facts and materials on record. The respondents after due enquiry have arrived at the categorical finding that the evaluation certificate produced by the petitioner is bogus.

7. It is further evident from the materials available on record, which is not disputed by the petitioner that the minimum qualifying marks is 50% and certain relaxation is given to candidates who qualify from the Karnataka Medium. The petitioner has not fulfilled even the relaxed norm provided by for persons passing out from Karnataka Medium. Though it is the stand of the petitioner that persons, similarly placed like the petitioner have been given relaxation, however, it is to be pointed out that in their cases, their certificates have not been found to be bogus. Therefore, the petitioner equating herself with those persons is impermissible. It is to be pointed out that any appointment secured by way of producing bogus/forged documents, would amount to misrepresentation and fraud being played on the employer and no right accrues to such person to claim his appointment or continuance in the said post and the respondents are well within their rights to terminate the said person after following the due process of law.

8. The petitioner has not produced any credible material to disprove the stand of the respondents either in the hearing by the respondents or before this Court. There being no tangible evidence supporting the case of the petitioner, the mere claim of the petitioner that the evaluation certificate was issued by the competent authorities cannot be a material to hold in favour of the petitioner. In such a backdrop, this Court does not find any reason to interfere with the order passed by the respondent and the case of the petitioner deserves to be rejected.

9. For the reasons aforesaid, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition are closed.

sd/
ASSISTANT REGISTRAR

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SUB-ASSISTANT REGISTRAR

jrs

To

1. The Secretary to the Government,
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kaveripattinam Union,
Krishnagiri Taluk,
Krishnagiri District.

+1 CC to M/S.K.Balaji Advocate SR NO.34879
+1 CC to Govt Pleader SR NO.35209

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NG[CO]
MK:19/12/2020



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