

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WRIT PETITION NO.8475 OF 2013

T.Senni

... Petitioner

vs.

1. The District Elementary Education Officer,
Salem.
 2. The Additional Assistant Elementary Education Officer,
Kolathur Union, Mettur Dam,
Salem District.
- ... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the Respondents to fit the Petitioner's pay in the VI Pay Commission Scale with effect from 01.01.2006 and release her withheld increments and grant her all service benefits including leave and consider her for promotion as Headmaster, Elementary School, along with her colleagues.

For Petitioner : Mr.V.Vijay Shankar

For Respondents: Mr.S.Suresh Kumar,
Government Advocate

ORDER

Petitioner herein has sought for a direction to the Respondents to fit her pay in the VI Pay Commission Scale with effect from 01.01.2006 and release her withheld increments and grant her all service benefits including leave, and consider her for promotion as Headmaster, Elementary School, on par with her colleagues.

2. According to the Petitioner, she was appointed as Secondary Grade Teacher vide proceedings dated 18.01.1999 of the 1st Respondent, on being sponsored by the Employment Exchange. Her services were confirmed with effect from 18.01.2001, i.e.

after completion of two years and orders to that effect were issued. Till January 2006, the Petitioner was paid Pay and allowances as per Rules and entitlement. However, vide proceedings dated 06.02.2006, the 1st Respondent issued a Show Cause Notice to the Petitioner, stating that, the RDO had reported that, the Community Certificate produced by her was a false one, and explanation was sought from the Petitioner within 15 days, as to why her salary and allowances should not be stopped.

3. Aggrieved by the said proceedings, the Petitioner filed W.P.No.4713 of 2006 and by an order dated 21.02.2006, the said Writ Petition was disposed of with a direction to the Respondents to furnish a copy of the Report of the RDO, on which, action was sought to be taken and directed the Petitioner to submit her explanation, based on the Report of the RDO. Till the furnishing of the Report and action taken on the said explanation offered by the Petitioner, the Show Cause Notice was directed to be kept in abeyance.

4. It is further stated by the Petitioner that, even thereafter, no steps were taken by the Respondents to furnish her a copy of the RDO's Report. In the meanwhile, the Respondents, in total violation of the order of this Court, withheld the increments of the Petitioner from January 2006 onwards. Thereafter, the 1st Respondent issued a letter to the Petitioner vide proceedings dated 26.11.2010 asking her to produce her original Community Certificate and the Petitioner, vide letter dated 20.12.2010 to the 1st Respondent, has stated that, copies of her Community Certificate were very much available with the Authorities. As her service benefits including pay fixation and promotion were affected, Petitioner has come up with the present Writ Petition.

5. Learned counsel for the Petitioner submitted that, the Community Certificate furnished by the Petitioner remains valid and subsisting and has not been cancelled till date and hence, she must be given due benefits. Hence, according to the learned counsel, the act of the Respondents in depriving the Petitioner her annual increments from 01.01.2006 and in refusing to sanction other benefits, is totally unjustifiable.

6. In reply, learned Government Advocate appearing for the Respondents, with reference to the counter Affidavit filed by the Respondents, submitted that the Community Certificate of the Petitioner which was reported to be issued by the Revenue Divisional Officer, Mettur Dam, mentioning the Community of the Petitioner as Scheduled Tribe (ST) was forwarded by the Chief Educational Officer, Salem to the Revenue Divisional Officer, Mettur Dam, to ascertain its genuineness. In reply, vide

proceedings in R.C.No.171/99, dated 20.11.2000, the Revenue Divisional Officer, Mettur Dam, has stated that, the Community Certificate of the Petitioner was not at all issued by him and that, it is a bogus one. Hence, according to the learned Government Advocate, the Petitioner is not entitled to the relief sought in the Writ Petition.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. The Revenue Divisional Officer, Mettur has given a Report vide R.C.No.171/99, dated 20.11.2000, to the effect that, the Community Certificate issued to the Petitioner is a bogus one. It appears that, the Petitioner did not produce her original Community Certificate to the Respondent/Department at the time of appointment. It is a settled law that, when a Community Certificate produced by a person is found to be fake, criminal prosecution can prevail against that person.

9. In the case on hand, the 1st Respondent, vide letter dated 26.11.2010 asked the Petitioner to produce her original Community Certificate. The Petitioner, vide letter dated 20.12.2010 to the 1st Respondent, replied that, her original Community Certificate was taken by her husband when he went abroad and he lost the same and that, copies of her Community Certificate are very much available with the Authorities.

10. As the original Community Certificate is necessary to ascertain its genuineness, this Court directs the Petitioner to produce her original Community Certificate to the 1st Respondent herein for verification, within a period of one week from the date of receipt of a copy of this order. On production of the original Community Certificate by the Petitioner, the 1st Respondent shall verify its genuineness and if it is found to be genuine, pass appropriate orders in accordance with law, in favour of the Petitioner. If the Community Certificate furnished by the Petitioner is found to be fake, the 1st Respondent shall take appropriate action against the Petitioner in accordance with law or initiate criminal prosecution against her.

The Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

(aeb)

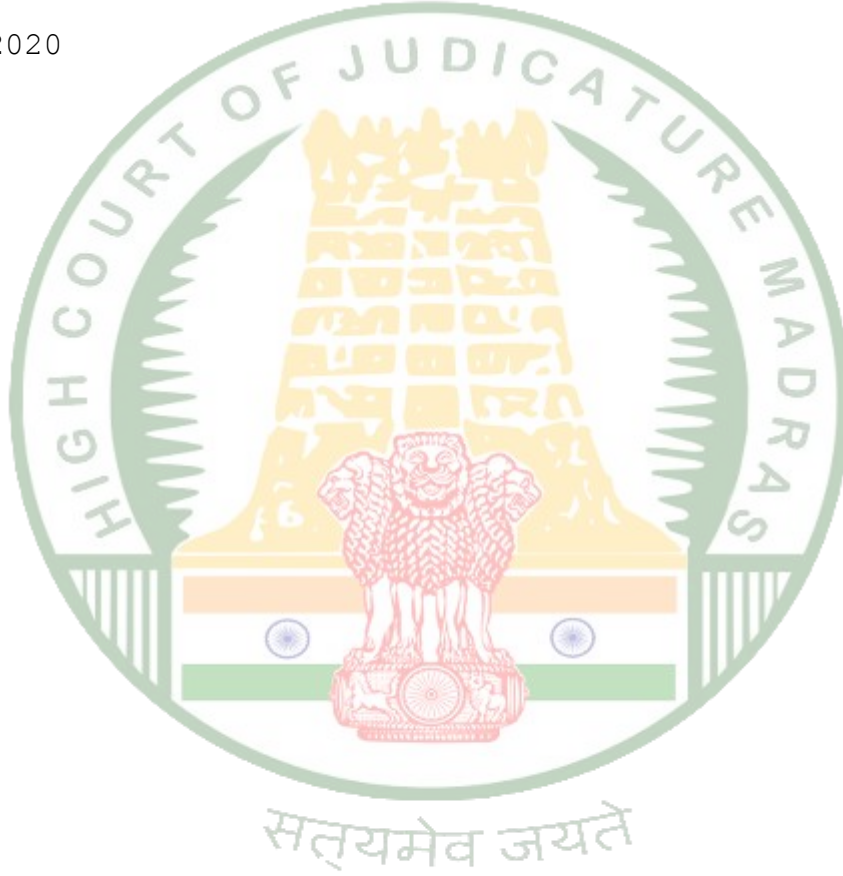
To:

1. The District Elementary Education Officer,
Salem.
2. The Additional Assistant Elementary Education Officer,
Kolathur Union, Mettur Dam,
Salem District.

+lcc to the Government Pleader, S.R.No. 35887

W.P.No.8475 of 2013

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