



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 4829 of 2012

and

M.P. (MD) Nos.1 of 2012 and 1 of 2013

Sundarambal Middle School,
Rep.by its Educational Agency,
M.Gnanaprakasam,
No.2, Keeraithurai, Madurai - 1.

... Petitioner

Vs.

The District Elementary Educational Officer,
D.E.E.O.'s Office,
R.M.S.Road, Madurai -1.

... Respondent

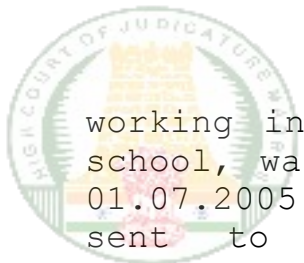
Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Na.Ka.No.7412/AA1/2001, dated 20.03.2012 and to quash the same and to direct the respondent to approve the proposal of the Petitioner for approval of promotion of middle school Headmaster G.Joseph Jeyaseelan with effect from 01.07.2005.

For Petitioner : Mr. C.Godwin
For Respondent : Mr. A.Thiyagarajan,
Government Advocate

O R D E R

Heard Mr. C.Godwin, Learned Counsel for the Petitioner and Mr. A.Thiyagarajan, Learned Government Advocate appearing for the Respondent and perused the materials placed on record, apart from pleadings of the parties.

2. The Petitioner is a recognized private school receiving grant in aid from the Government of Tamil Nadu for payment of salaries to its teachers and governed by the provisions of the Tamil Nadu Recognized Private Schools (Regulations) Act, 1973. The School Committee of the Petitioner had been approved by the Respondents for the period from 08.07.1994 to 08.07.1997 and thereafter, it was placed under direct payment system from 09.07.1997 onwards. After retirement of the incumbent holding the post of Headmaster in the school on 30.06.2005, one Mr. G.Joseph Jeyaseelan, who was



working in the approved post of Secondary Grade Teacher in that school, was promoted as Middle School Headmaster with effect from 01.07.2005 and the proposal for approval of his appointment was sent to the Assistant Elementary Educational Officer on 09.07.2005, which remained without consideration. In such circumstances, the Petitioner filed the Writ Petition in W.P. (MD) No. 4074 of 2010 in this Court for directing the District Elementary Educational Officer, Madurai to consider and pass orders on the proposal dated 09.07.2009 made by the Petitioner for the approval of appointment of the Middle School Head Master for its school with effect from 01.07.2005 in terms of the proceedings in O.Mu.2842/AA5/2006 dated 21.04.2006 and Na.Ka.No.14122/AA5/96 dated 09.04.2007, which was disposed by order dated 25.07.2011 holding as follows:-

"3. Though several factual averments have been made in the affidavit filed in support of the Writ Petition, for which, a counter affidavit has been filed by the 1st respondent, the learned counsel for the petitioner submits that the petitioner would be satisfied if the 1st respondent is directed to pass orders on the proposal submitted by the petitioner on 09.07.2005.

4. The learned Additional Government Pleader for the respondents also submits that the 1st respondent may be directed to pass appropriate orders on merits and in accordance with law.

5. In view of the above said submission, this Writ Petition is disposed of with a direction to the 1st respondent to pass appropriate orders on the petitioner's proposal dated 09.07.2005 in respect of approval of appointment of middle school Headmaster within a period of 8 weeks from the date of receipt of the copy of this order. It is made clearly that this Court has not gone into the merits of the Petitioner's claim in the Writ Petition or adverted to any of the contentions raised in the counter affidavit and the authorities shall pass orders in accordance with law. No costs."

In furtherance to the aforesaid order passed by this Court, the Respondent by order in Na.Ka.No 7412/AA1/2001 dated 20.03.2012 has rejected the proposal for appointment of the said G.Joseph Jeyaseelan as Headmaster with effect from 01.07.2005 on the ground that the constitution of School Committee of the Petitioner, which is the competent authority to make such appointment, had not been approved at the time of making that appointment. Aggrieved thereby, the Petitioner has filed the present Writ Petition challenging that order and for consequential directions.



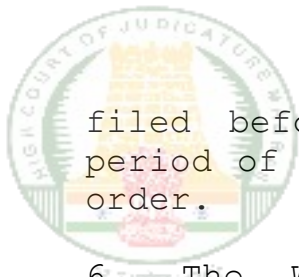
3. In the counter-affidavit dated 23.07.2012 filed by the Respondent, while reiterating the aforesaid reason stated in the impugned order, it has further explained that the constitution of the School Committee could not be approved as certain required documents such as Building Licence, Building Stability Certificates, Sanitary Certificates and Certificates regarding fire fighting equipments had not been produced during the relevant period and the Petitioner was alone responsible for its non-submission.

4. Though it is true that the School Committee is the competent authority under Section 18(1)(b) of the Tamil Nadu Recognised Private Schools Regulations Act, 1973, to appoint teachers and other employees of the school, as contended by the Respondent, it has not been shown as to how its actions during the period for which its constitution had not been approved by the concerned authority would not be valid. However, it is brought to notice that after the filing of the Writ Petition, the constitution of the School Committee has been approved by the competent authority for the period from 03.08.2012 to 02.08.2015 by order in Na.Ka. No. 7412/Aa.1/2001 dated 04.02.2013 and for the period from 03.08.2015 to 02.08.2018 by order in Moo.Mu. No. 4028/Aa1/2015 dated 14.10.2015, passed by the concerned authority.

5. In view of the aforesaid subsequent developments, it is deemed appropriate to set aside the impugned order and remit the matter to the Respondent for re-examination of the proposal made by the Petitioner for appointment of Mr. G.Joseph Jeyaseelan as Headmaster with effect from 01.07.2005 on merits and in accordance with law. The Respondent shall afford full opportunity of hearing to the Petitioner and all persons connected and shall pass reasoned orders dealing with each of the contentions raised by the parties and in particular, in the following germane aspects of the matter shall be specifically addressed:-

- (i) Whether it is factually correct that the School Committee of the Petitioner had appointed the said G.Joseph Jeyaseelan as Middle School Headmaster and if so, when?
- (ii) Whether there is any legal impediment for the Respondent to approve the appointment of a Headmaster of a School on the ground that the constitution of the School Committee (which had made such appointment) had not been approved as on that date and if so, how?
- (iii) Whether the said G.Joseph Jeyaseelan was duly qualified as on 01.07.2005 to hold the post of Middle School Headmaster?
- (iv) Whether the said G.Joseph Jeyaseelan had been actually functioning in the post of Middle School Headmaster from 01.07.2005 onwards as claimed by the Petitioner?

The decision taken shall be communicated to the parties concerned under written acknowledgment and report of compliance shall be



filed before the Registrar (Judicial) of this Court within a period of three months from the date of receipt of a copy of this order.

6. The Writ Petition is disposed on the aforesaid terms. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das/sj

To

The District Elementary Educational Officer,
D.E.E.O.'s Office,
R.M.S.Road, Madurai -1.

copy to
The Registrar(Judicial)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.GODWIN, Advocate (SR-11526[F] dated 13/03/2020)

+1 CC to M/s.SPL.GP (SR-11585[F] dated 13/03/2020)

W.P.(MD)No. 4829 of 2012

and

M.P.(MD) Nos. 1 of 2012 and 1 of 2013

Dated : 12.03.2020

DB(CO)

TR(27.05.2020) 4P 5C