



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2020

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.4851 of 2014

and

M.P(MD).No.1 of 2014

M/s.Sattamuni Saliar Primary School,
rep., by its Secretary,
No.104-A, Muthusamipuaram,
Virudhunagar District.

... Petitioner

-Vs-

1.The Joint Director of Primary Schools
(Aided Schools)-cum-Appellate Authority
Chennai 600 006.

2.The District Elementary Educational Officer,
Virudhunagar.

3.G.Velmurugan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records relating to the impugned order of the first respondent in Na.Ka.No.22552/F2/2012 dated 06.02.2014 confirming the impugned order of the second respondent in Na.Ka.No.6711/A2/2010 dated 30.11.2012 quash the same and consequently direct the respondents 1 and 2 herein to dismiss the third respondent from the post of Secondary Grade Teacher in the petitioner School.

For Petitioner	: Mr.Mohammed Ayub for M/s.Veera Associates
For Respondents	: Mr.J.Gunaseelan Muthiah Additional Government Pleader for R1 & R2 Mr.T.Lajapathi Roy for R3

ORDER

The order dated 06.02.2014 passed by the Joint Director of Elementary Schools (Aided Schools) is under challenge in the present writ petition.



2.Initially the proposal of the writ petitioner's School Management seeking for approval to terminate the services of the third respondent was rejected by the District Elementary Educational Officer and an appeal by the School, the same was dismissed again by the Joint Director of Elementary Education.

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3.The learned counsel for the writ petitioner School mainly contended that the third respondent is causing threat to maintain morale amongst to the children studying in the School. The third respondent unnecessarily interfered with the affairs of the School administration. Thus, the Management has followed the procedures and submitted a proposal seeking approval of the competent authority to terminate the services of the third respondent. The competent authority without considering the genuineness of the allegations had rejected the approval petition and thus, the present writ petition is filed.

4.The learned counsel appearing on behalf of the third respondent disputed the contention by stating that the Joint Director of Elementary Education has no jurisdiction to entertain any appeal with reference to approval petition filed by the writ petitioner School to terminate the services of a Teacher, who is working in a Elementary School. This apart, the punishment of termination is not in proportionate with the gravity of the allegation set out in the charge memo. The learned counsel is of the opinion that the Correspondent of the School as well as the third respondent are co-brother and on account of certain family disputes and a personal vengeance the disciplinary proceedings were initiated against the third respondent.

5.Even presuming the allegations are weighs the punishment of termination is shocking disproportionate with the gravity of the charges framed against the third respondent. In all these circumstances, the Joint Director of Elementary School Education himself has rejected the approval petition. However, the Joint Director is not the authority competent to entertain the appeal in view of the provisions of the Private School Regulations Act (hereinafter referred to 'The Act').

6.The learned counsel solicited the attention of this Court with reference to Section 22 of the Act and accordingly, the District Educational Officer is the original authority for Pre-Primary, Primary and Middle School and Chief Educational Officer is the Appellate Authority. Therefore, the writ petitioner had approached the wrong authority and the authority also exercised powers erroneously. This Court is of the considered opinion that when the Joint Director of Elementary Education has no jurisdiction to entertain the appeal, the order passed by the said Joint Director cannot be sustained at all.



7.This being the factum, the impugned order passed by the Joint Director of Elementary Education alone is to be quashed and the petitioner must be given liberty to approach the competent authority, namely Chief Educational Officer to adjudicate the appeal. Accordingly, the following orders are passed:-

(1) The impugned order passed by the first respondent in proceedings Na.Ka.No.22552/F2.2012, dated 06.02.2014 is quashed;

(2) The writ petitioner School Management is permitted to file a fresh appeal before the competent authority, namely Chief Educational Officer concerned;

(3) If any such an appeal is filed, then the competent authority, namely Chief Educational Officer concerned is directed to entertain the appeal without reference to the delay occurred and decide the matter on merits and in accordance with law within a reasonable period of time.

8.With these directions, the Writ Petition stands allowed in part. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-)

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/ /2020

Sub Assistant Registrar (CS)

rmk

To

1.The Joint Director of Primary Schools
(Aided Schools)-cum-Appellate Authority
Chennai 600 006.

2.The District Elementary Educational Officer,
Virudhunagar.

+1 CC to SGP (SR-21308[F] dated 05/11/2020)

W.P. (MD).No.4851 of 2014
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SSS (CO)

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