

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. No.1922 of 2021

and

W.M.P. Nos.2169 and 2170 of 2021

D.Jaya Mercy

...Petitioner

vs.

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

2.The Chief Educational Officer
Chennai District
Presidency Girls Higher Secondary School Campus
Egmore, Chennai - 600 008

3.The District Educational Officer
Chennai West Education District
DPI Campus, College Road
Chennai - 600 006

4.The Secretary
Nirmal High School
38/18, Sabapathi Street
Ayanavaram, Chennai 600 023

5.E.Dianna Juliet
B.T. Assistant (Science)
Nirmal High School
38/18, Sabapathi Street
Ayanavaram, Chennai 600 023

...Respondents

Writ petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus to call for the records relating to the impugned order issued by the 4th respondent in Letter No.Nil dated 17.09.2020 and to quash the same and consequently directing the respondents to allow the petitioner to continue in the post of Headmaster of the 4th respondent school from the actual date of promotion on 01.06.2019, with consequential and other attendant benefits within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran

For Respondent : Mr.P.Raja
Govt. Advocate for R1 to R3
Mr.P.Rajendran for R4

O R D E R

The petitioner has come forward with the present writ petition for a writ of certiorarified mandamus to call for the records relating to the impugned order issued by the 4th respondent in Letter No.Nil dated 17.09.2020, quash the same and consequently for a direction to the respondents to allow the petitioner to continue in the post of Headmistress in the school of the 4th respondent from the actual date of promotion on 01.06.2019, with consequential and other attendant benefits within a time frame that may be fixed by this Court.

2. The case of the petitioner is that she was working as Headmistress in the fourth respondent school for some time. According to the petitioner, the fifth respondent, has suddenly replaced her and the petitioner was not given an opportunity of being heard before a decision is taken. According to the petitioner, the cancellation of the post of Headmistress given to the petitioner, is illegal and completely in violation of the principles of natural justice. She further contended that even though the Tamil Nadu Private Schools Regulation Act is a self contained code, when the action was taken not in accordance with the statutory powers bypassing the provisions of the statutory appeal, if any, the petitioner is entitled to knock at the doors of this court. Hence the order impugned dated 17.09.2020, shall be interfered with.

3. Mr.P.Rajendran, who took notice on behalf of the fourth respondent, contend that, it is no doubt true that the petitioner was given the post of Headmistress on the basis of seniority in terms of the Private Schools (Regulations) Act, 1974. The merit-cum-ability alone has got to be considered for the post of Headmistress and all other things being equal, seniority will come into play. In the present case on hand, as there was violation of Section 15 of the Private Schools (Regulation) Act in appointing the petitioner, it has been decided to form a committee to consider the case of the petitioner and the fifth respondent to select the best candidate, who is said to be appointed as Headmistress and as such the fifth respondent was appointed as Headmistress of the fourth respondent school on 24.12.2020, following the rules and regulations. In the impugned order dated 17.09.2020, the

petitioner was informed that she can continue to work as Headmistress in-charge instead of Headmistress, till a new Headmistress is appointed as per the rules and regulations. He further submitted that the petitioner has got a right of statutory appeal and bypassing the same, the petitioner cannot approach this court for redressal of her grievance.

4. Heard both sides and perused the materials available on record.

5. It is not in dispute that the fifth respondent has been appointed as Headmistress of the fourth respondent school on 24.12.2020. Whether the petitioner was given any opportunity or not and whether the merit-cum-ability can be ignored and seniority alone can be considered for the post of Headmistress and bypassing statutory appeal, whether the petitioner can knock at the doors of this court can be gone in to by an appropriate forum, when the order of promotion dated 24.12.2020 issued to the fifth respondent, is questioned by the petitioner before a proper forum. As the fifth respondent has already taken charge, it is represented by the learned counsel for the petitioner that instead of repeated requests by the petitioner to issue a copy of the appointment order of the fifth respondent, the same has not been furnished to the petitioner. This court, while not granting the relief to the petitioner, direct the fourth respondent to furnish a copy of the order granting promotion as Headmistress to the fifth respondent, to the writ petitioner, to question the same, making the fifth respondent also a party, so that a composite decision can be taken by the appropriate forum. If the order of promotion dated 24.12.2020, is questioned by the writ petitioner, the same shall be decided within a period of 90 days from the date of making an appeal before the appropriate authority concerned.

6. In view of the foregoing discussions, the writ petition is dismissed. However, there shall be no order as to cost. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

(Asr)

To :

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Chennai District
Presidency Girls Higher Secondary School Campus
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3.The District Educational Officer
Chennai West Education District
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+1cc to Mr.G.Sankaran, Advocate, S.R.No. 5214
+1cc to the Government Pleader, S.R.No. 5184

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GSM(CO)
GN(09/02/2021)



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