

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5560 of 2021

Motilal Fomra Sanatana Dharma Higher Secondary School,
New No.17, Old No.26,
Managgappan Street,
Sowcarpet, Chennai - 600 079
Rep by its Correspondent,
K.K.Maheshwari,
S/o. Bhagwan Das Mahewsari Petitioner

-vs-

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Chennai District,
Egmore, Chennai - 600 008.
3. The District Educational Officer,
Chennai North,
SIDCO Nagar,
Chennai - 600 049. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing respondents to grant approval of appointment of teacher Mr.M.Dhan Raj Shekar in the sanctioned post of P.G.Assistant (Tamil) in the petitioner school with effect from 01.08.2019, by accepting the proposal submitted by the petitioner school dated 16.09.2019, with all consequential and other attendant benefits including payment of salary from the date of appointment, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.P.Raja,
Government Advocate

O R D E R

This Writ petition is filed, seeking a direction to direct respondents to grant approval of appointment of teacher Mr.M.Dhan Raj Shekar in the sanctioned post of P.G.Assistant (Tamil) in the petitioner school with effect from 01.08.2019, by

accepting the proposal submitted by the petitioner school dated 16.09.2019, with all consequential and other attendant benefits including payment of salary from the date of appointment, within a time frame to be fixed by this Court.

2. Mr.P.Raja, learned Government Advocate, takes notice for the respondents. By consent, final orders are passed in the Writ Petition at the admissions stage.

3. It is the case of the petitioner that the Petitioner School was established by S.S.D.V. Association and it is a Linguistic Minority Institution, governed by the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Rules 1974, made thereunder. Presently, there are more than 730 students studying in the petitioner school and there are 26 Teaching staff including Headmaster and 5 Non-teaching staff working in the school. In the Petitioner School, a vacancy in the post of P.G.Assistant (Tamil) arose due to voluntary retirement of incumbent Tmt.S.Chitra on 04.06.2019 AN, duly approved by department. In the resultant vacancy, one M.Dhan Raj Shekar was appointed as P.G.Assistant (Tamil) on 01.08.2019 FN and he has also joined duty on 01.08.2019. Subsequently, the petitioner school has forwarded proposal to the 3rd respondent on 16.09.2019 seeking approval of appointment of M.Dhan Raj Shekar in the post of P.G.Assistant (Tamil) with effect from 01.08.2019 and the same was also forwarded by the 3rd respondent to 2nd respondent. The proposal has not been still considered by the respondents by referring to G.O.Ms.No.165 School Education Department dated 17.09.2019 by stating that as per which vacancy to the post in the aided schools can be filled up through deployment of surplus teachers working in other schools, till then approval of appointment cannot be granted. The respondents are withholding the approval of appointment of teacher by referring to G.O.Ms.No.165 dated 17.09.2019 which cannot be applied retrospectively. In the said circumstances, the proposal submitted by the Petitioner School is kept pending without any rhyme or reason. Hence, he filed this writ petition for direction to the respondent to accept his proposal.

4. Considering the facts and circumstances of this case, if the Petitioner's application is already pending with the authorities concerned and, not disposed of earlier, this Court directs the respondent concerned to consider the representation of the petitioner dated 16.09.2019, if it is otherwise eligible and pass appropriate orders, in accordance with law, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order.

5. The petitioner shall furnish his phone number, email ID,

if any, etc., along with a copy of the representation dated 16.09.2019 and this order, to the respondent concerned forthwith. The respondent concerned is directed to communicate the decision taken on the application, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the parties to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the parties, they will have to face the civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of attempt of delivery, so that the parties, at a later point of time, will not take a plea that it is not aware of the order.

6. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

To

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Chennai District,
Egmore, Chennai - 600 008.
3. The District Educational Officer,
Chennai North,
SIDCO Nagar,
Chennai - 600 049.

+1cc to Mr.G.Sankaran, Advocate SR.No. 14660

A.SK(07.04.2021)

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