

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.01.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24086 of 2014

Dr.P.Balasubramanian

...Petitioner

-Vs-

1. Joint Director of School Education
(Higher Secondary), Chennai - 600 006.
 2. Chief Educational Officer,
Saidapet, Chennai - 600 015.
 3. District Educational Officer,
Chennai East, Chennai - 600 094.
 4. The Hindu Higher Secondary School,
Rep.by its Secretary,
Triplicane, Chennai - 600 005.
- ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 4th respondent to implement the order passed by the 1st respondent in his proceedings O.Mu.No.3519/W5/E3/2014 dated -04.2014 and the order passed by the second respondent in his proceedings Rc.No.10341/B3/2014 dated 18.07.2014.

For Petitioner : Mr.P.Ganesan for M/s.C.S.Associates

For R1 to R3 : Mr.C.Munusamy,
Special Government Pleader

For R4 : Mr.Sivaprakasam

ORDER

Heard all the parties and perused the materials brought on record.

2.The case projected by the petitioner in this writ petition is as follows:

2.1 The petitioner joined as PG Assistant (Chemistry) in the fourth respondent school on 04.08.1989. While he was working

as such, the post of Headmaster fell vacant on 01.09.2011, due to retirement of one R.Thirumalai. The School committee selected the petitioner and promoted him as Headmaster on 07.10.2011 and duly forwarded the proposal to the third respondent for approval.

2.2 Challenging the promotion given to the petitioner, one K.Mohandass, who was working as PG Assistant (Physics) in the fourth respondent school, filed WP.No.20914 of 2012. Pending the same, he retired from service on 30.04.2013. Due to pendency of the writ petition, the petitioner continued to work as Headmaster, without approval. Subsequently, he was reverted back to the PG Assistant, based on his request dated 01.07.2013.

2.3 In the mean while, the fourth respondent nominated one V.C.Gopi Anandan, PG Assistant (Physics) as Assistant Headmaster, on 06.06.2013, who is junior to the petitioner, when he was holding the post of Headmaster. Stating that as per G.O.Ms.No.898, School Education Department, dated 26.05.1988, senior most person should be nominated as Assistant Headmaster to assist the Headmaster, the petitioner made a representation on 25.09.2013 to the fourth respondent to nominate him as Assistant Headmaster, to which, he received a reply stating that his request will be considered as and when vacancy arises.

2.4 Thereafter, based on G.O.Ms.(3D) No.25 Education Department dated 13.10.1998 stating that the relinquished persons in Government Higher Second Schools are also eligible for nomination of Assistant Headmaster, provided they are otherwise eligible as per seniority, and pursuant to the order of this Court dated 07.02.2014 passed in WP.No.3552 of 2014 at the instance of the petitioner, the first respondent by his proceedings in O.Mu.No.3519/W5/E3/2014 dated ..4.2014, directed the fourth respondent to pass necessary orders on the request of the petitioner. Consequently, the second respondent, by his proceedings in Rc.No.10341/B3/2014 dated 18.07.2014, directed the fourth respondent to nominate the petitioner as Assistant Headmaster, instead of V.C.Gopi Anandan. Even thereafter, no order was issued by the fourth respondent, which compelled him to file Contempt Petition bearing No.1905 of 2014.

2.5 During the course of hearing the contempt petition, it was stated by the fourth respondent that there was no specific direction against them and hence, no contempt would lie. In view of the same, this Court directed the petitioner to file a fresh writ petition seeking appropriate direction to the fourth respondent. Therefore, the petitioner is before this Court with this writ petition.

3. Upon notice, the respondent authorities filed a detailed counter affidavit *inter alia* stating that the respondents 1 and 2 already directed the fourth respondent to pass necessary orders on the request of the petitioner to nominate him as Assistant Headmaster, but the fourth respondent did not comply with the same. That apart, in paragraph 8, it is specifically stated by the respondent authorities that the fourth respondent has to consider the representation of the petitioner to nominate him as Assistant Headmaster and the other respondents will take appropriate action against the orders passed by the fourth respondent.

4. In the given facts and circumstances of the case and having regard to the specific averment made in the counter affidavit filed by the respondent authorities, this Court finds it appropriate to issue a direction to the fourth respondent. Accordingly, the fourth respondent is directed to pass necessary orders, as regards the claim of the petitioner, in the light of the proceedings issued by the respondents 1 and 2, and send the same to the respondent authorities for further action, within a period of eight (8) weeks from the date of receipt of a copy of this order.

5. With the above directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Joint Director of School Education
(Higher Secondary), Chennai - 600 006.
2. The Chief Educational Officer,
Saidapet, Chennai - 600 015.
3. The District Educational Officer,
Chennai East, Chennai - 600 094.
4. The Secretary, The Hindu Higher Secondary School,
Triplicane, Chennai - 600 005.

+1cc to M/s.C.S.Associates, Advocate SR.NO.. 1698

+1cc to The Government Pleader SR.NO..2237

AKM/30.04.21/3P-7C/

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