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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.32532 of 2018
and
W.M.P.No.37741 of 2018
(Through Video Conferencing)

CSI High School,
Represented by its Correspondent,
Mr.Ebenezer V.Muthaia,
D.No.18, Arakkonam Road,
Tiruthanai, Thiruvallur District - 631 209. ...Petitioner

Vs

- 1.The Joint Director of School Education,
(Elementary), College Road,
Chennai - 6.
- 2.The Chief Educational Officer,
Thiruvallur.
- 3.The District Educational Officer,
Thiruvallur.
- 4.Mrs.J.S.M.Elvin Monica, Sewing Teacher,
CSI High School,
D.No.18, Arakkonam Road,
Tiruthani - 631 209. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the third respondent in Na.Ka.No.6826/A2/2018 dated 22.05.2018, to quash the same and to consequently direct the first to third respondents to approve the appointment of the fourth respondent from the date of her initial appointment as Sewing Teacher by converting the retirement vacancy of sanctioned and approved Wood Work Teacher.

For Petitioner : Mr.L.Chandrakumar
For R1 to R3 : Mr.L.S.M.Hasan Fizal
Government Advocate



ORDER

This writ petition has been filed to quash the impugned communication bearing Ref.Na.Ka.No.6826/A2/2018 dated 22.05.2018 of the third respondent and for a consequential direction to the first to third respondents to approve the appointment of the fourth respondent from the date of her initial appointment i.e., on 16.08.2016.

2. By the impugned communication, the respondents have informed the petitioner that after the Wood Work Teacher Mr.T.Kirubakaran retired on 31.05.2010, the said post became vacant and therefore the petitioner could not suo motu appoint a Sewing Teacher on their own without any approval from the first to third respondents.

3. The learned counsel for the petitioner submits that the post of Wood Work Teacher was sanctioned post and after Mr.T.Kirubakaran retired in 2010, there were no students for the said discipline and since the demand in Sewing discipline was still there, the petitioner appointed the fourth respondent as Sewing Teacher on 16.08.2016.

4. It is submitted that the Teacher-Pupil ratio is satisfied in terms of G.O.Ms.No.525, School Education (D1) Department dated 29.12.1997. He therefore submitted that the respondents were not justified in not approving the appointment of the fourth respondent as Sewing Teacher on 16.08.2016.

5. Defending the impugned order, the learned Government Advocate for the first to third respondents submits that the post of Wood Work Teacher had become redundant over a period of time and Government Order has been issued by the Government of Tamil Nadu, pursuant to which the vacancy caused on account of superannuation of the teachers appointed as Wood Work Teacher is deemed to have been surrendered/lapsed. He therefore submits that there is no justification in the present writ petition as the impugned order dated 22.05.2018 of the third respondent was in terms of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the first to third respondents.

7. The report of the third respondent District Education Officer dated 05.12.2017 indicates that one post was reserved for Wood Work Teacher at Sl.No.9 whereas, the post of Sewing Teacher (Thaiyal Asiriyar) was Nil.



8. The provisions of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 is silent as to the manner in which post reserved for a particular discipline can be converted to any discipline depending upon the demand for a discipline.

9. Rule 15 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 merely stipulates that the number of teachers and other persons employed in a private school shall not exceed the number of posts sanctioned by Director of School Education, from time to time, with reference to the academic requirements Teacher-Pupil ratio and overall financial considerations. Thus, the appointment has to be in terms of the academic requirements apart from Teacher-Pupil ratio and over all financial considerations.

10. Admittedly, in this case, the fourth respondent was appointed in the petitioner's School as early as 16.08.2016. The petitioner has also sent representation to the third respondent as early as 18.11.2016. The aforesaid representation seeking approval of the appointment of the fourth respondent as a Sewing Teacher was disposed only on 22.05.2018 by rejecting the request of the petitioner by stating that the aforesaid post of Wood Work Teacher which became vacant on 31.05.2010 had become surplus and therefore the fourth respondent cannot be appointed in the place of Wood Work Teacher.

11. The other reasons given in the impugned order is that there is no sanction for appointing the fourth respondent as a Sewing Teacher under Rule 15 of the Tamil Nadu Recognised Private Schools (Regulation) Rules. The Student-Pupil ratio is with a reference to the academic requirements. Therefore, the respondents can approve the appointment of the fourth respondent provided the petitioner has satisfied the requirements of Rule 15 of the aforesaid Rules on the date of appointment.

12. In the light of the above, this Court is inclined to dispose this writ petition by directing the respondents to consider the appointment of the fourth respondent favourably with effect from 18.11.2016 provided the petitioner has satisfied the other requirements of Rule 15 of the Tamil Nadu Recognition of Private Schools (Regulation) Rules, 1974. This exercise shall be carried out by the respondents within a period of eight weeks from the date of receipt of a copy of this order.



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13. This Writ Petition stands disposed of in terms of the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

arb

To

1.The Joint Director of School Education,
(Elementary), College Road,
Chennai - 6.

2.The Chief Educational Officer,
Thiruvallur.

3.The District Educational Officer,
Thiruvallur.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.43588
+1cc to the Government Pleader, S.R.No.44277

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and
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SRA (CO)
KKV/22/09/2021