



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.624 of 2020

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Hindu Nadar Uravinmurai Committee
Primary School,
Rep. By its Secretary,
Manickam

... Petitioner

vs.

- 1.The Secretary to the Government,
Department of School Education,
St. George Fort, Chennai.
- 2.The Director of Elementary Education,
DPI Compound,
College Road, Chennai.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Sankaran Kovil,
Tirunelveli District.
- 5.The Block Educational Officer-II,
Vasudevanallur,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in respect of order passed by 4th respondent in O.Mu.No.3895/Aa1/2019, dated 26.11.2019 and quash the same and consequently direct the 4th respondent to give prior permission to fill up the vacancy to the post of Secondary Grade at petitioner school.

For Petitioner : Mr.S.Chellapandian
For Respondents : Mr.K.S.Selvaganesan,
Government Advocate.

ORDER

This Writ Petition has been filed challenging the order of the fourth respondent in O.Mu.No.3895/Aa1/2019, dated 26.11.2019, and for a consequential direction to the fourth respondent to give prior permission to fill up the vacancy to the post of Secondary Grade at petitioner school.



2. The petitioner school is renowned school in Puliyangudy locality and a aided private school governed by Tamil Nadu Private Schools Regulation Act. In the petitioner school, one Murugesan worked as a Secondary Grade Teacher was promoted as P.G.Assistant on 09.04.2008. Due to the same, the petitioner school intended to fill the said vacancy with suitable candidate. Therefore, the petitioner school sent a proposal to the competent authority, seeking prior permission to fill up the vacancy on 14.08.2019. However, the fourth respondent without giving an opportunity, rejected the proposal, by the impugned order dated 26.11.2019, stating that in W.A.(MD)Nos.76 of 2019 etc., batch, this Court by order dated 09.04.2019, directed the respondents "unless surplus posts are deployed in needy school, do not approve the appointment made in the corporate management till then" and the same is pending for adjudication. Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the reason given in the impugned order is unsustainable, in view of the subsequent order of the Division Bench of this Court in W.A.(MD)No.76 of 2019, dated 31.03.2021. In the said order, this Court has held that G.O.Ms.No.165, School Education Department, dated 17.09.2019, issued in compliance of the interim order dated 09.04.2019, referred in the impugned order, as inoperative and therefore, prayed for setting aside the impugned order.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and perused the materials carefully.

5. A reading of the impugned order shows that the fourth respondent has rejected the proposal of the petitioner school referring to the order of the Division Bench of this Court dated 09.04.2019, made in W.A.(MD)No.76 of 2019, etc., batch. In compliance of the above said order, the Government issued G..(Ms) No.165, School Education Department, dated 17.09.2019, with regard to re-deployment of surplus teachers. A Division Bench of this Court, vide interim order dated 20.09.2019, in W.A.(MD)Nos.76 of 2019, etc., batch, suspended the operation of the said Government Order until further orders. Subsequently, another Division Bench of this Court, vide Judgment dated 31.03.2021 made the said Government Order as inoperative, in the very same writ appeals. The fourth respondent, without considering the above legal position and subsequent order of this Court, dated 20.09.2019 and the judgment dated 31.03.2021, made in the very same writ appeals, erroneously rejected the proposal of the petitioner school.

6. For the above reason, the impugned order is liable to be set aside and accordingly, the impugned order passed by the fourth respondent, vide impugned proceeding in O.Mu.No.3895/Aa1/2019, dated



26.11.2019, is hereby set aside. The respondents are directed to approve the proposal of the petitioner school in the light of the guidelines issued by the Division Bench of this Court in W.A.(MD) No.76 of 2019, etc., batch, dated 31.03.2021 within a period of twelve (12) weeks from the date of receipt of a copy of this order.

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7. This Writ Petition is allowed with the above direction. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Secretary to the Government,
Department of School Education, St. George Fort, Chennai.
- 2.The Director of Elementary Education,
DPI Compound, College Road, Chennai.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Sankaran Kovil, Tirunelveli District.
- 5.The Block Educational Officer-II,
Vasudevanallur,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-21714[F] dated 08/07/2021)

+1 CC to M/s.S.CHELLAPANDIAN, Advocate (SR-21994[F] dated 09/07/2021
W.P (MD) No.624 of 2020

07.07.2021

SSS (CO)

KB (26.07.2021) 3P 8C

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