



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.345 of 2021

in C.M.P.(MD) No.1158 of 2021

Against W.P(MD)No.19551 of 2020

WEB COPY

The Secretary,
Mallankinaru Nadargal MSP Senthilkumar Nadar
Higher Secondary School,
Mallankinaru,
Virudhunagar District. .. Appellant/4th Respondent

Vs.

1.P.Jeyakodi .. 1st Respondent/Writ Petitioner

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

3.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Virudhunagar District.

4.The District Educational Officer,
O/o. The District Educational Officer,
Virudhunagar District.

.. Respondents 2 to 4/Respondents 1 to 3

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 23.12.2020, in W.P.[MD]No.19551 of 2020.

Prayer in WP(MD). 19551 of 2020 :

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus to call for the records relating to the impugned order passed by the 3rd respondent vide Na.Ka.No. 524/A2/2020 dated 02/03/2020 and quash the same and consequently direct the 4th respondent to forward the proposal in respect of petitioners incentive increment for having acquired M.Sc., (Mathematics) degree to the 2nd and 3rd respondents and direct the 2nd and 3rd respondents to approve the same within time frame.

For Appellants	: Mr.C.Gangai Amaran
For Respondent No.1	: Mr.D.Shanmugaraja Sethupathi
For Respondent No.2	: No appearance
For Respondent Nos.3&4	: Mr.R.Baskaran

Standing Counsel for Government



JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.C.Gangai Amaran, learned counsel for the appellant, Mr.D.Shanmugaraja Sethupathi, learned counsel for respondent No.1 and Mr.R.Baskaran, learned Standing Counsel for Government, appearing for respondent Nos.3 and 4.

2.This Writ Appeal by the School Management, who is the fourth respondent in the Writ Petition, is directed against the order dated 23.12.2020, in W.P.[MD]No.19551 of 2020, which was allowed. The Writ Petition was filed by the first respondent challenging the proceedings of the fourth respondent herein, dated 02.03.2020, and to direct the appellant Management to forward the proposal in respect of the first respondent claim for incentive increment for having acquired M.Sc. Mathematics degree.

3.The question for consideration is whether approval was obtained before obtaining the higher qualification.

4.Firstly, we need to take note of the fact that the appellant is Management of the School, in which the first respondent is working, and it is submitted that permission was granted and the proposal itself emanated from the appellant Management. Now, it appears there is a change of the Managing Committee, which has taken a decision to challenge the order.

5.Sanction of increment is by the Government and it is for them to take a decision. It is shown to us that the education department has not filed the Writ Appeal as against the order dated 23.12.2020 in W.P.(MD) No.19551 of 2020, but, at the instance of the appellant Management. Therefore, we cannot examine the correctness of the impugned order.

6.In view of the above, we dismiss the Writ Appeal filed by the Management without any *locus standi*. We make it clear that in the event of the Education Department filing appeal, the observation made in this judgment will not in any manner impede the case of the Department. Consequently, the merits of the issue is left open. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

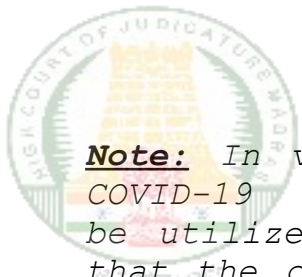
Sd/-

Assistant Registrar (AD-II)

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/ /2021

Sub Assistant Registrar(CS)



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 Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 2.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Virudhunagar District.
- 3.The District Educational Officer,
O/o. The District Educational Officer,
Virudhunagar District.

+1 CC to M/s.D.SHANMUGA RAJA SETHUPATHI, Advocate (SR-22824[F]
dated 16/07/2021)

W.A. [MD]No.345 of 2021

15.07.2021

RK (30.07.2021) 3P 5C