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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).Nos.368 & 369 of 2021

and

C.M.P(MD).Nos.1269 & 1271 of 2021

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,
Virudhunagar.

3.The District Educational Officer,
Sivakasi Educational District,
Sivakasi,
Virudhunagar District. ..Appellants in both cases

Vs.

1.T.Thillaiammal ..R1 in W.A.(MD).No.368 of 2021

2.T.Rajasulochana ..R1 in W.A.(MD).No.369 of 2021

3.The Secretary,
Sivasubramania Nadar-Guruvammal Girls-
Higher Secondary School,
Thiruthangal,
Virudhunagar District. ..2nd Respondent in both cases

Prayer in W.A.(MD).No.368 of 2021: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 17.12.2020 made in W.P(MD).No.18714 of 2020 and allow the writ appeal.

Prayer in WP(MD). 18714/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-33. To issue a Writ of Certiorarified Mandamus or any other order or direction in the nature of writ call for the records relating to the impugned order passed by the 2nd respondent vide Na.Ka.No.1550/A4/2019 dt 17.06.2019 and the impugned order passed by the 3rd respondent vide O.Mu.No.1974/A4/2018 dt 28.09.2020 and quash the same and consequently direct the 4th respondent to forward the proposal in respect of petitioner`s incentive increment for having acquired

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B.Ed., and M.A., Degrees to the 2nd and 3rd respondents and direct the 2nd and 3rd respondents and direct the 2nd and 3rd respondents to approve the same within time frame

Prayer in W.A.(MD).No.369 of 2021: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 17.12.2020 made in W.P(MD).No.18727 of 2020 and allow the writ appeal.

Prayer in WP(MD). 18727/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-33. to issue a writ of certiorarified mandamus or any other order or direction in the nature of writ, call for the records relating to the impugned order passed by the 2nd respondent vide Na.Ka.No.1550/A4/2019 dated 17.06.2019 and the impugned order passed by the 3rd respondent vide O.Mu.No.1978/A4/2018 dated 28.09.2020 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. degree to the 2nd and 3rd respondents and direct the 2nd and 3rd respondents to approve the same within time frame

In both cases

For Appellants : Mr.A.K.Manickkam
Standing counsel for Government
For 1st Respondent : Mr.D.Shanmugaraja Sethupathi
For 1st Respondent : No-appearance for R2

C O M M O N J U D G M E N T

(Order of the Court was made by **T.S.SIVAGNANAM,J.**)

These writ appeals filed by the State is directed against the order, dated 17.12.2020 passed in W.P.(MD).Nos.18714 and 18727 of 2020, respectively.

2.Heard Mr.A.K.Manickkam, learned Standing counsel for Government appearing for the appellants and Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the first respondent / writ petitioner in both appeals.

3.The Identical impugned orders passed in other writ petitions were tested for its correctness by us in W.A.(MD)Nos.813, 822 and 825 of 2021 and the writ appeals filed by the department were dismissed by judgment, dated 16.04.2021. Incidentally, the impugned order in all those writ petitions were identical impugned order as that of the impugned order challenged in the writ petition filed by the first respondent herein. The operative portion of the judgment reads as follows :

"6.On a perusal of the proceedings of the appellant dated 18.02.2019, it is seen that there is

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no such condition imposed, but only reference to G.O.Ms.No.101, stating that the Chief Educational Officer of the concerned district would be entitled to grant permission is made.

7.The learned Writ Court, after considering the submissions of the other side, taking note of the decision in the case of ***Director of Elementary Education, Chennai*** *Vs.* ***G.Vijayalakshmi and another*** *reported in* ***(2015) 6 MLJ 315,*** allowed the writ petition. Aggrieved by the same, the department is before us.

8.After we have elaborately heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellants and Mr.D.Shanmugaraja Sethupathi, learned Counsel for the first respondent / writ petitioner, we are of the considered view that the order passed by the learned Single Bench is perfectly justified and calls for no interference. We had an occasion to consider a similar case, though there was a slight difference in the facts of the case in W.A.[MD]No.271 of 2021 and we have dismissed the appeal filed by the Government.

9.The case on hand is a better case on facts. Thus for the reasons assigned by the learned Writ Court, as well as the reasons assigned by us and in terms of our earlier judgments referred above, we find no good grounds to interfere with the order of the learned Writ Court.

10.After we have dictated the judgment, the learned Special Government Pleader submitted that the matter has to be placed for ratification before the Court.

11.In the facts and circumstances of the case, we find no justification for doing so because no such ratification needs to be automatic because the head of the department namely, the Director of School Education has already issued proceedings dated 18.02.2019. This should be taken note of by the appellants.

12.Accordingly, this Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed."

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4. Following the same, these Writ Appeals stand dismissed. No Costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

RM

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,
Virudhunagar.

3.The District Educational Officer,
Sivakasi Educational District,
Sivakasi,
Virudhunagar District.

+2 CC to M/s.D.SHANMUGA RAJA SETHUPATHI, Advocate (SR-22829[F] dated 16/07/2021)

+1 CC to M/s.SPL GP (SR-23221[F] dated 19/07/2021)

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NS(CO)
KB(26.07.2021) 4P 7C

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