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W.A.[MD]No.822 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]No.822 of 2021

and

C.M.P.[MD]No.3658 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/Respondents

Vs.

1.U.Subbulakshmi

2.The Secretary,
Sivasubramania Nadar Guruvammal Girls
Higher Secondary School,
Thiruthangal,
Virudhunagar District.

: Respondents/Writ
Petitioner, 4th Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 09.12.2020 in W.P.[MD]No.17904 of 2020, on the file of this Court and allow the writ appeal.

Prayer in WP(MD). 17904/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, 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 quash the same and consequently direct the 4th respondent to forward the proposal in respect of the petitioner's incentive increment for having acquired M.A., and B.Ed., Degrees to the 2nd and 3rd respondents and direct the 2nd and 3rd respondents to approve the same within



For Appellants : Mrs.S.Srimathy
Special Government Pleader

JUDGMENT

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

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Heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellant department.

2.This appeal filed by the Director of School Education and the officials of the Education Department is directed against the order dated 09.12.2020 in W.P.[MD]No.17904 of 2020.

3.The first respondent filed the said writ petition challenging the proceedings of the second appellant dated 17.06.2019, by which, the second appellant directed the third appellant to take appropriate action against those teachers which include the writ petitioner as to why disciplinary action should not be taken against them for having acquired higher qualification without obtaining prior permission from the department.

4.As soon as the order dated 17.06.2019, impugned in the writ petition was communicated to the management, the management sent representations on 19.01.2019, to the third appellant stating that the management was not aware that prior permission should be obtained from the department before permitting any of their teachers acquire higher qualification. Therefore, they pleaded ignorance and pleaded for appropriate orders to be issued. Thereafter, the Director of School Education by proceedings dated 18.02.2019, has referred to G.O.Ms.No.101 dated 18.05.2018, whereunder power was granted to the Chief Educational Officer of the district for granting permission to teachers to acquire higher qualification.

5.According to the learned Special Government Pleader, even though the Government Order was passed, the permission requires a ratification by the Government as the teachers concerned after acquiring higher qualification seek for incentive increment and there is a financial burden cast upon the state.

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

Sd/-

Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar (CS)

MR

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.



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+1 CC to SPL GP (SR-16253[F] dated 17/04/2021)

JUDGMENT MADE IN
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16.04.2021

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