



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2021

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THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

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W.A. (MD)No.1147 of 2021
and C.M.P. (MD) No.4954 of 2021

R.Umavathi

... Appellant/Petitioner

Vs.

- 1.The Director of School Education,
D.P.I. Campus, College Road,
Nungambakkam,
Chennai - 600 006.
- 2.The Chief Educational Officer,
Chief Educational Office,
Thoothukudi District.
- 3.District Educational Officer,
District Educational Office,
Kovilpatti,
Thoothukudi District.
- 4.The Secretary,
St. Mary's High School,
Therku Konarkottai,
Chettikurichi Post,
Thoothukudi District.
- 5.T.Augustine Appasamy,
St. Mary's High School,
Therku Konarkottai,
Chettikurichi Post,
Thoothukudi District.

... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.20660 of 2014, dated 09.03.2021.

Prayer in WP(MD). 20660/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the 4th respondent in Na.Ka.No. 133/2012 dated 09.10.2012 quash the same and restore the petitioner to the post of B.T Assistant (Tamil) and pass such further or other orders.



For Appellant : Mr.T.Lajapathi Roy
For Respondent Nos. 1 to 3 : Mr.A.K.Manickam,
Senior Counsel for Government
For Respondent No.4 : Mr.M.Saravanan

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J U D G M E N T

(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

Heard Mr.T.Lajapathi Roy, learned counsel for the appellant, Mr.A.K.Manickam, learned Standing Counsel for Government appearing for respondent Nos.1 to 3 and Mr.M.Saravanan, learned counsel for the fourth respondent.

2.Though a counter affidavit has been filed on behalf of the fifth respondent in the Writ Petition, none appeared for him at the time of disposal of the Writ Petition. Therefore, we are dispensing with notice to the fifth respondent and also for the reason that we are not issuing any positive direction, which may impinge his right to continue in the promotional post and we are dealing only with the correctness of the order passed in W.P.(MD) No.20660 of 2014 dated 09.03.2021. The said Writ Petition was filed by the appellant, challenging the order passed by the fourth respondent Management dated 09.10.2012 and to restore the appellant to the post of P.T. Assistant in Tamil. The learned Single Judge had dismissed the Writ Petition on the ground that the charge memo issued to the appellant is not vitiated on the ground of lack of jurisdiction.

3.In our considered view, we may left the issue to be decided in the appeal petition filed before the statutory authority, namely, the Regional Joint Director of School Education before whom the appeal was filed on 01.04.2014. In fact, the petition filed for a direction to dispose the appeal in W.P.(MD) No.4687 of 2015 was disposed of, giving a direction to dispose of the appeal. In our considered view, the appeal remedy is not only effective but also efficacious and the appellant has rightly invoked the remedy and it is not proper to simultaneously challenge the departmental proceedings imposed on the appellant by filing the Writ Petition.

4.As on date, the fifth respondent is working in the promoted post and the petitioner is also working in the very same school. Therefore, we are of the view that the *status quo* should not be disturbed and it would not be conducive for the children, especially in the situation of pandemic. Though we are not inclined to interfere with the order passed in the Writ Petition, we make it clear that the issue is left open and a decision be taken by the Regional Joint Director of School Education before whom the appeal petition dated 01.04.2014 is pending. We also place on record the submission of the fourth respondent that competent authority has framed the charges and issued charge memo. It is for the fourth respondent to establish the same before the Regional Joint Director



of School Education when the appeal is heard.

5. In view of the above, the Writ Appeal is disposed of directing the Regional Joint Director of School Education to dispose of the appeal filed by the appellant dated 01.04.2014, after issuing notice to the petitioner and respondent Nos.4 and 5, as expeditiously as possible. In order to facilitate the appellate authority to dispose of the appeal petition at the earliest, the appellant is directed to file a copy of the appeal dated 01.04.2014, along with this judgment before the Regional Joint Director of School Education. The said authority shall take note of the grounds raised and take a reasoned decision on merits and in accordance with law within a period of three months from the date of receipt of a copy of the representation from the appellant in terms of the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSII)

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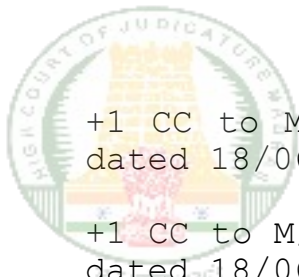
Sub Assistant Registrar(CS)

sj

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,
D.P.I. Campus, College Road,
Nungambakkam,
Chennai - 600 006.
- 2.The Reginal joint Director of School Education,
Tuticorin.
- 3.The Chief Educational Officer,
Chief Educational Office,
Thoothukudi District.
- 4.District Educational Officer,
District Educational Office,
Kovilpatti,
Thoothukudi District.



+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-19600[F]
dated 18/06/2021)

+1 CC to M/s.T.LAJAPATHIROY, Advocate (SR-19644[F]
dated 18/06/2021)

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KB(30.06.2021) 4P 7C