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W.P.(MD)No.10246 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 18.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.10246 of 2021

and W.M.P. (MD) Nos.7938 to 7940/2021

(Through Video Conferencing)

Kalaivani

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Tenkasi District,Tenkasi.
- 2.The District Educational Officer,
Sankarankoil, Tenkasi District.
- 3.The Block Level Educational Officer-1
Vasudevanallur Range,
Tenkasi District.
- 4.The Secretary
School Committee,
Bharathi Elementary School
Keelakarisalkulam Village,
Royagiri
Sivagiri Taluk
Tenkasi District.
- 5.S.Gana Chelladurai
President,
School Committee
Bharathi Elementary School
Keelakarisalkulam Village,
Royagiri
Sivagiri Taluk
Tenkasi District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 2nd respondent in his proceedings in Mu.Mu.No.969/A1/2020 dated 29.09.2020 and quash the same as illegal, arbitrary and violation of law.

For Petitioner	: Mr.M.Jothi Basu
For Respondent	: Mr.M.Lingadurai for R1 to R3 Government Advocate (civil)



ORDER

This writ petition has been filed challenging the order passed by the second respondent granting approval to the school committee that is said to have been formed by the fourth respondent school.

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2. The petitioner has questioned the approval granted by the second respondent through proceedings dated 29.09.2020 mainly on the ground that no meeting was held before the school committee was formed and the entire exercise is a farce and the second respondent has not applied his mind before granting approval to the school committee and appointing the fourth respondent as the Secretary of the school committee.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Civil) appearing on behalf of the respondents 1 to 3.

4. It is seen from the records that there is an ongoing dispute between the petitioner and the management of the school and the petitioner had approached this Court by filing W.P.(MD) No.1335/2021 challenging the order of suspension of the fourth respondent. One of the main ground that was taken in the said writ petition is that the order of suspension was made without any authority and the very functioning of the school committee was questioned. This Court took into consideration this important issue and entertained the writ petition and granted an interim order on 27.01.2021 staying the order of suspension.

5. The petitioner also has a grievance to the effect that she has not been paid the salary by the school for more than eight months. In the present writ petition, the petitioner has questioned the approval granted by the second respondent for the school committee.

6. In the considered view of this Court, the petitioner has an effective alternative remedy under the Tamilnadu Recognized Private Schools Regulation Act, 1973 and the Rules thereunder and the petitioner has to necessarily exhaust the alternative remedy and the writ petition cannot be directly entertained by this Court. Even otherwise this Court, exercising its jurisdiction under Article 226 of the Constitution of India, cannot conduct a roving enquiry as to whether the meeting took place and a school committee was formed or even without convening a meeting the list of the school committee was circulated to the second respondent. A factual finding on this issue requires assessment of facts, which can be effectively done by the appellate authority. Therefore, this Court is not inclined to entertain this writ petition on the ground that there is an effective alternative remedy available to the petitioner.



7. Insofar as the grievance of the petitioner that she has not been paid the salary for more than eight months, the petitioner is permitted to move an appropriate petition in W.P.(MD) No.1335/2021 and seek for the said remedy.

8. In the result, the writ petition is disposed of by giving liberty to the petitioner to file an appeal against the impugned order passed by the second respondent and work out her remedy. The petitioner shall file the appeal before the competent authority within a period of two weeks from the date of receipt of a copy of this order and the competent authority shall entertain the appeal on merits without rejecting the same on the ground of delay and after giving an opportunity to all the parties, orders shall be passed within a period of eight weeks from the date of receipt of the appeal from the petitioner. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Chief Educational Officer,
Tenkasi District, Tenkasi.
- 2.The District Educational Officer,
Sankarankoil, Tenkasi District.
- 3.The Block Level Educational Officer-1
Vasudevanallur Range, Tenkasi District.

+1 CC to M/s.G.M.LAW OFFICE, Advocate SR-19686[F] dated 21/06/2021
+1 CC to M/s.SPL GP (SR-19741[F] dated 21/06/2021)

W.P. (MD)No.10246 of 2021
18.06.2021

na (CO)

TR(25.06.2021) 3P 6C