



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.1214 of 2021

and

C.M.P. [MD]No.5123 of 2021

V.A.Raj : Appellant/5th Respondent
Vs.

1.Indian Evangelical Lutheran Church,
Rep. by the Administrator,
Justice D.HAriparanthaman (Retd.),
No.47, Eldams Road,
Teynampet, Chennai - 600 018. :1st Respondent/Petitioner

2.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

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

4.The District Educational Officer,
O/o. The District Educational Office,
Valliyoor,
Tirunelveli District.

5.Mrs.S.Vijayalakshmi,
District Educational Officer,
O/o. The District Educational Office,
Valliyoor,
Tirunelveli District. :Respondents 2 to 5/PRespondents 1 to 4

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent,
praying to set aside the order dated 11.03.2021, in W.P.[MD]No.10071
of 2019.

Prayer in WP(MD). 10071/ 2019 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorari calling for the records relating to the impugned order
passed by the 3rd respondent in his proceedings in
Na.Ka.No.1827/A2/17 dated 18.03.2019 and quash the same as illegal.



WEB COPY

For Appellant : Mr.R.Jeayaprakash
for Mr.D.Selvanayagam
For Respondent No.1 : No appearance
For Respondents 2to4 : Mr.A.K.Manickam
Standing Counsel for Government
For Respondent No.5 : Mr.Silambarasan
Senior Counsel for Mr.S.Karthick

JUDGMENT

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

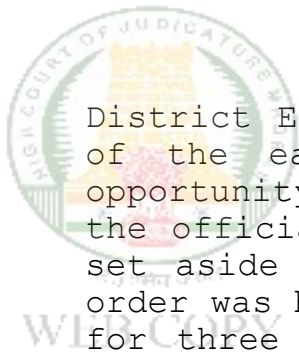
This Writ Appeal by the fifth respondent in the writ petition in W.P.[MD]No.10071 of 2019, is aggrieved by the order dated 11.03.2021 passed in the writ petition, in and by which the proceedings of the District Educational Officer, Valliyoor, Tirunelveli District dated 18.03.2019, granting approval of appointment of the appellant as the Correspondent of the institution was set aside.

2.Mr.R.Jeyaprakash, learned Counsel for the appellant elaborately set out the factual matrix and submitted that the appellant was appointed as Correspondent on 01.05.2018 and the reason assigned by the learned Writ Court for setting aside the said appointment is solely on the ground that an Administrator had been appointed in the institution wherein the Hon'ble retired Judge of this Court had taken over and for such reason alone the approval of appointment of the appellant as Correspondent could not have been interfered. Further, it is submitted that the District Educational Officer had implemented the directions issued by the Hon'ble Supreme Court in Civil Appeal No.6101 of 2018 dated 06.07.2018 and no error was committed in the order approving the appointment of the appellant as Correspondent.

3.We have heard Mr.A.K.Manickam, learned Standing Counsel for Government appearing for the official respondents and Mr.Silambarasan, learned Senior Counsel for Mr.S.Karthick, learned Counsel appearing for the fourth respondent, since the District Educational Officer Smt.S.Vijayalakshmi has been impleaded by name in the writ petition.

4.After elaborately hearing the learned Counsel for the parties, we are of the considered view that the order and direction issued by the learned Writ Court is perfectly justified and calls for no interference. We support such conclusion with the following observations:

4.1.The case of the Correspondent is that he was appointed on 01.05.2018. There was a litigation between the members of the Indian Evangelical Lutheran Church. The matter travelled up to the Hon'ble Supreme Court and the order was passed on 06.07.2018, directing the

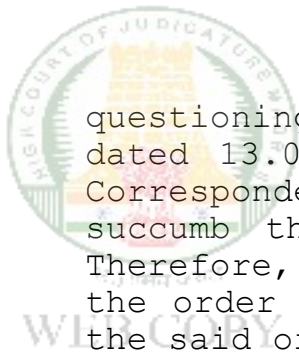


District Educational Officer to take a fresh decision in the place of the earlier decision dated 13.04.2018, after affording the opportunity of personal hearing to the appellant herein as well as the official respondents and other respondents. The order which was set aside by the Hon'ble Supreme Court was dated 13.04.2018. This order was based on the earlier incumbent in office granting approval for three other persons as Correspondent of the institution which was put to challenge by the Indian Evangelical Lutheran Church, represented by Mr.V.A.Raj, who is the Secretary, who is none other than the appellant before us who claims to have been validly appointed by the Church as the Correspondent.

4.2.After the order passed by the Hon'ble Supreme Court, in Transfer C.S.No.741 of 2017, and Application No.1695 of 2018, the learned Single Bench at the principal seat in a suit filed by the Indian Evangelical Lutheran Church represented by its General Treasurer passed an order on 31.07.2018, appointing a retired Judge of this Court as the Administrator of the institution. In the said order, the learned Court notes that earlier the Court had recorded in its order dated 26.07.2018 that fraud has been played not only by the parties in the suit in C.S.No.373 of 2017, but also by some of the Counsels said to have appeared for other defendants in the said suit which was struck off with costs. Further, the Court noted that in the order dated 26.07.2018, the Court made an observation that for the smooth running of the Church, in view of the serious allegations made against each other and for the interest of the Church and its members, a retired Judge of this Court is to be appointed as Administrator of the Church to maintain and to conduct election and the entire administration should be monitored as per the byelaws of the Church.

4.3.After the order passed by the Hon'ble Supreme Court was received by the appellant, he had submitted a representation dated 03.09.2018 which was handed over by the appellant in person to the District Educational Officer when one P.Natarajan, was holding the post. In his order dated 04.10.2018, he has made it clear that the Hon'ble Administrator having been appointed to the institution, his concurrence is required in the matter. Subsequently, the fourth respondent was posted as the District Educational Officer, who has passed the order dated 18.03.2019, which was impugned in the writ petition. The explanation, however, is that in compliance of the directions issued by the Hon'ble Supreme Court, the order dated 18.03.2019 was passed without reference to the Hon'ble Administrator. This explanation cannot be accepted, since the earlier incumbent in office took note of the appointment of the Hon'ble Administrator and observed that the concurrence of the Administrator is required to be obtained before approval is considered.

4.4.To say the least, this issue is never canvassed by the appellant Mr.V.A.Raj, since he was the Secretary representing the Indian Evangelical Lutheran Church when they filed a writ petition,



questioning an order passed by the District Educational Officer dated 13.04.2018 in and by which three persons were appointed as Correspondents. Thus, the attempt of the appellant appears to be to succumb the Administrator and get approval from the department. Therefore, the learned Single Bench was right in interfering with the order dated 18.03.2019 and we find no ground to interfere with the said order.

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

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /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.

To

1. The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai - 600 009.

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

3. The District Educational Officer,
O/o. The District Educational Office,
Valliyoor, Tirunelveli District.

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-20600[F] dated 29/06/2021)
+1 CC to M/s.SPL GP (SR-20720[F] dated 30/06/2021)

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KB(05.07.2021) 4P 6C