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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.07.2021
CORAM:
THE HONOURABLE MS.JUSTICE V.M.VELUMANI
W.P(MD)No.16419 of 2019
and W.M.P.(MD)Nos.13082 & 13083 of 2019

M.Michael Antony ... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By the Secretary,
Department of School Education,
St. George Fort, Secretariat,
Chennai - 9.

2.The Director,
School Education (Higher Secondary)
Directorate of School Education,
College Road, D.P.I. Compound,
Chennai - 6.

3.The Chief Education Officer,
O/o. the Chief Education Officer,
Tirunelveli District - 627 001.

4.The District Educational Officer,
O/o. The District Educational Officer,
Tirunelveli District - 627 003.

5.St.Xavier's Higher Secondary School,
Rep. By the Correspondent,
Palayamkottai,
Tirunelveli District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.743/A2/2018 dated 18.05.2018 on the file of the respondent No.4 and quash the same as illegal and consequently directing the respondent No.3 to approve the appointment of the petitioner as B.T.Assistant in English with the respondent No.5 school from 07.06.2017 onwards and disburse the consequential monetary benefits.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.P.Subbaraj,
Govt. Advocate for R1 to R4
Mr.K.Ragatheesh Kumar for
M/s.Isaac Chambers for R5

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ORDER

The petitioner has filed this Writ Petition challenging the order of the fourth respondent in Na.Ka.No.743/A2/2018 dated 18.05.2018 and for a consequential direction to the third respondent to approve the appointment of the petitioner as B.T.Assistant in English with the fifth respondent school from 07.06.2017 onwards and disburse the consequential monetary benefits.

2. According to the petitioner, he was appointed as Secondary Grade Teacher and sought permission in the year 2009 from the fifth respondent school for acquiring additional qualification in B.A, (English). The fifth respondent school forwarded the proposal to the fourth respondent. Before the proposal was approved, the petitioner joined B.A. (English) course in 2009, completed the same in 2012 and acquired the qualification in B.A. (English). Again, in 2013, the petitioner sought permission to acquire B.Ed., degree. The fifth respondent school forwarded the same to the fourth respondent. The fourth respondent granted approval and the petitioner acquired B.Ed., degree. The petitioner was promoted as B.T.Assistant (English) in the fifth respondent school on 07.06.2017. The fifth respondent school sent a proposal on 02.03.2018 to the fourth respondent for approval of appointment of the petitioner to the post of B.T.Assistant (English). The fourth respondent did not approve the same for want of ratification order. The fifth respondent sent a proposal to the fourth respondent to approve the petitioner's appointment to the Post of B.T.Assistant (English) from 07.06.2017 onwards, by way of passing ratification order. The fourth respondent, by the impugned order dated 18.05.2018, rejected the proposal on the ground that the petitioner did not obtain prior permission for acquiring additional qualification viz., B.A. (English). Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that as per G.O.Ms.No.101 School Education (Budget-1) Department, dated 18.05.2018, the competent authority, to give prior permission for acquiring additional qualification is the Correspondent, i.e., fifth respondent school. The fourth respondent has to approve the proposal sent by the fifth respondent. The learned counsel for the petitioner contended that in the present case, the fifth respondent granted permission and sent proposal to the fourth respondent for approval. The learned counsel for the petitioner submitted that in the very same school, the fourth respondent has granted ratification order for acquiring additional qualification to three other Teachers, those who did not obtain prior permission to their studies and prayed for allowing the Writ Petition.

4. The respondents 1 to 4 have filed counter affidavit. The learned Government Advocate submitted that the three Teachers

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referred to by the petitioner have acquired their additional qualifications before issuance of Government Letter (1D) No.356, School Education Department, dated 02.11.2007, by the Government. The petitioner acquired additional qualification, without obtaining prior permission, only after issuance of Government Letter (1D) No.356, School Education Department, dated 02.11.2007, by the Government. Therefore, the rejection of proposal of the fifth respondent for ratification and approval by the fourth respondent is valid and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent and perused the materials available on record carefully.

6. From the above rival submissions and materials on record, it is seen that while the petitioner was working as a Secondary Grade Teacher, he completed B.A.(English) and B.Ed. Degree courses. For acquiring B.A. (English), the petitioner sought prior permission from the fifth respondent school. The fifth respondent school granted permission and sent a proposal to the fourth respondent for approval in the year 2009. Before the fourth respondent approving the proposal sent by the fifth respondent, the petitioner joined, B.A.(English) in the year 2009 and completed the same in the year 2012. Till the petitioner acquired B.A.(English) qualification, the fourth respondent has not passed any order on the proposal sent by the fifth respondent. It is pertinent to note that subsequently, when the petitioner sought permission to acquire B.Ed., degree, the proposal sent by the fifth respondent was approved by the fourth respondent. When the fourth respondent approved the proposal of the fifth respondent for permitting the petitioner to acquire B.Ed., degree, it implies that the fourth respondent has ratified the additional qualification of the petitioner viz., B.A.(English), that acquired without permission. A person can acquire B.Ed., degree only, if he possesses a degree qualification. A Secondary Grade Teacher without degree cannot acquire B.Ed., degree. Once the approval is granted for acquiring B.Ed., degree, the fourth respondent cannot refuse to ratify the approval for acquiring B.A. (English), which was acquired without permission.

7. For the above reasons, the impugned order dated 18.05.2018 passed by the fourth respondent is liable to be set aside and accordingly, the same is hereby set aside. The third respondent is directed to consider the proposal sent by the fifth respondent school for approval of the appointment of the petitioner as B.T.Assistant (English) and pass orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.

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8. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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

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State of Tamil Nadu,
Department of School Education,
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O/o. The District Educational Officer,
Tirunelveli District - 627 003.

+1 CC to M/s.ISACC CHAMBERS, Advocate (SR-22065[F] dated 12/07/2021
+1 CC to M/s.SPL GP (SR-22115[F] dated 12/07/2021)

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RKN (29.07.2021) 4P 7C

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