



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.11.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.11997 of 2018

and

W.M.P. (MD) .No.10954 of 2018

M.Lourdu Santhiagappan

... Petitioner

vs.

1.The Director of School Education,
College Road, Chennai.

2.The District Educational Officer,
Uthamapalayam, Theni District.

3.The Superior General,
Generelete Brothers of Sacred Heart of Jesus,
9 H, High Ground Road,
Tirunelveli - 11.

4.The Correspondent,
St. Aloysius Higher Secondary School,
Royappanpatti 625 526,
Theni District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to promote the petitioner in the post of P.G. Assistant (Maths), by considering the petitioner's application, dated 11.12.2017, within a stipulated time.

For Petitioner	: Mr.T.A.Ebenezer
For R1 & R2	: Mr.A.K.Manikkam Special Government Pleader
For R3 & R4	: Mr.V.Meenakshisundaram for M/s.D.Nallathambi

O R D E R

Heard Mr.T.A.Ebenezer, learned counsel for the petitioner, Mr.A.K.Manikkam, learned counsel for R1 and R2 and Mr.V.Meenakshisundaram, learned counsel for R3.



2. The petitioner has filed an application dated 11.12.2017 before R4, the Correspondent of the St.Aloysius Higher Secondary School, seeking promotion to the post of P.G. Assistant (Maths). Presently, the petitioner holds a post of B.T.Assistant (Maths) in R4 Institution.

3. The aforesaid prayer is not liable to be granted for the reason that promotion in a Minority Institution would be dependent upon the discretion of the institution itself and the approval that is granted in regard to candidate selected by the institutions.

4. Thus, reliance upon the provisions of Section 15(4) of the Tamil Nadu Private Schools (Regulation) Rules 1974 will be of no assistance to the petitioner, particularly seen in the context of the judgment of this Court in the case of *Eka Ratchagar Sabai Higher Secondary School and another vs. K.Sumathi and another* ((2008) 1 MLJ 322) wherein several of the Rules, including Rule 15(4) were made inapplicable to minority institutions.

5. The only condition imposed is that the procedure followed for such selection as followed by the institution, and subsequent approval accorded by the State authorities, after examination that the selected candidate selected holds all requisite qualifications for that post, is transparent.

6. R4 has, in fact appointed one Moovendan, to the post sought by the petitioner. However, in light of interim order passed by this Court to the effect that any appointment made to the post of P.G.Assistant (Maths) pending writ petition will be subject to the outcome of this writ petition, the approval sought for the appointment of the said Moovendan has come to be returned by the District Educational Officer /R2.

7. Though the return of the approval has has not been challenged by R4, it appears to have sought a Mandamus in W.P.(MD). No.13373 of 2019 to the effect that the approval could very well have been granted subject to the outcome of the writ petition, pointing out that Moovendan has been rendering services in the school from 2018 without salary or benefits. That writ petition is pending.

8. That apart, the present petitioner has filed W.P.(MD). No.16417 of 2021 challenging the appointment of Moovenden by way of writ of certiorarified Mandamus. In light of the aforesaid discussion, Mandamus as sought for by the petitioner in this writ petition is not liable to be granted, and this writ petition is closed as infructuous.



9. However, since the petitioner has no interim protection in W.P.(MD).No.16417 of 2021, the protection granted on 06.06.2018 in this writ petition to the effect that the appointment made in the post of P.G.Assistant (Maths) will be subject to the outcome of the present writ petition will continue till the disposal of W.P.(MD) No.16417 of 2021.

10. It is appropriate that both the aforesaid writ petitions viz., W.P.(MD).Nos.16417 of 2021 and 13373 of 2019 and clubbed and heard together. Let orders be obtained by the Registry in this regard from the Hon'ble Administrative Judge. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

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,
College Road, Chennai.

2.The District Educational Officer,
Uthamapalayam,
Theni District.

Copy to
The Section Officer,Writs Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.SPL GP (SR-36027[F] dated 26/11/2021)

W.P. (MD) No.11997 of 2018
18.11.2021

DKS (CO)
TR(01.02.2022) 3P 5C