



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD) No.15510 of 2018

T.M.Kannaki

...Petitioner

/Vs./

1.The District Elementary Educational Officer,  
District Elementary Education Office,  
Tirunelveli,  
Tirunelveli District.

2.The Additional Assistant Elementary  
Educational Officer,  
Vasudevanallur,  
Sivagiri Taluk,  
Tirunelveli District.

3.Thirugnanasambanthar Middle School,  
Rep. through its Secretary,  
Puliangudi,  
Kadaiyanallur Taluk,  
Tirunelveli District.

4.R.Jeyanthi

...Respondents

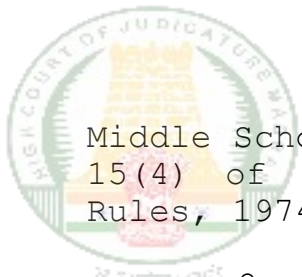
PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondent Nos.1 to 3 herein to consider the petitioner's representations dated 09.04.2016 and 11.06.2018 and pass appropriate orders to promote the petitioner herein as Headmistress of Thirugnanasambanthar Middle School, Puliangudi, Tirunelveli District/3<sup>rd</sup> respondent School, as per Rule 15(4) of Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 within a time stipulated by this Court.

For Petitioner  
For Respondents

: Mr.V.Meenakshisundaram  
: Mr.A.K.Manikkam  
Special Government Pleader  
for RR1 and 2  
Mr.Mohammed Imran  
for M/s.Ajmal Associates for R4  
No-appearance for R3

### **O R D E R**

The petitioner seeks a Mandamus directing R1 to R3 to consider her representations dated 09.04.2016 and 11.06.2018 and pass orders appointing her as Head Master of Thirugnanasambanthar



Middle School, Puliangudi, Tirunelveli District/R3, in terms of Rule 15(4) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, (in short 'Rules') within a fixed timeframe.

2. The petitioner was appointed on 05.07.1989 in R3 School. The position of Head Master fell vacant and though the petitioner claims to have been eligible at that relevant juncture, she gave way to her husband to be appointed as Head Master. He thus assumed the position of Head Master, but, passed away on 13.09.2014.

3.R3 School thereafter chosen to appoint R4 in the position of Head Master finding her meritorious and more suitable, in terms of Rule 15(4) of the Rules. The order of appointment of R4 as Head Master has not been challenged. The present writ petition has been filed only in 2018, despite R4 having stepped into the shoes of the petitioner's husband in the position of Head Master as early as in September 2014.

4.The case of the petitioner is she was eminently qualified and suitable for appointment as Head Master even in December 2002, and her relinquishment of the post in favour of her husband was a right that she exercised in terms of the Rules.

5.A distinction is made qua the right of relinquishment under the Fundamental Rules of the State of Tamil Nadu and the right of relinquishment under the Tamil Nadu Private Schools (Regulation) Rules to say that while the Fundamental Rules provide for the option of either a temporarily relinquishment or one for a longer duration, the Private Schools (Regulation) Rules grant a more favourable right.

6.Thus, the petitioner would argue that she was entitled to relinquish the post at her volition and thereafter, seek appointment to the position again, if such position fell vacant.

7.Per contra, the official respondents would argue that the petitioner does not have a vested right to appointment and the fact that she had held the necessary seniority at a particular point in time does not guarantee her suitability on all subsequent occasions. In fine, they would argue that it is the discretion of the school to arrive at a considered decision as to the most appropriate person for appointment.

8. As far as the interpretation of Rule 15(4) of the Rules is concerned, prima facie the respondents appear to be correct in stating that the petitioner cannot seek appointment as a matter of right. It is left entirely to the discretion of the School to determine the merit and ability of a candidate for a particular post and the question of seniority is only to be applied as a tipping factor, assuming that both the aforesaid qualities are available in



equal measure in the contesting candidates.

9. Since the representation of the petitioner seeking the identical relief as sought for before me, is pending before the authorities, let the school hear the petitioner and pass a speaking order in accordance with all relevant rules and regulations. Since R4 is in service as Head Master since October 2014, let no order be passed that would disturb such tenure except in line with the principles of natural justice and after hearing R4.

10. This Writ Petition is disposed as above. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

ssb

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 District Elementary Educational Officer,  
District Elementary Education Office,  
Tirunelveli, Tirunelveli District.

2. The Additional Assistant Elementary  
Educational Officer,  
Vasudevanallur,  
Sivagiri Taluk, Tirunelveli District.

+1 CC to M/s.D.NALLATHAMBI, Advocate ( SR-37328[F] dated 03/12/2021 )

+1 CC to M/s.SPL GP ( SR-37408[F] dated 06/12/2021 )

+1 CC to M/s.AJMAL ASSOCIATES, Advocate ( SR-37464[F] dated 06/12/2021 )

W.P. (MD) No.15510 of 2018  
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GM(CO)

KB(31.01.2022) 3P 6C

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