



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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Writ Petition (MD)No.16444 of 2016

and

W.M.P. (MD) .No.12007 of 2016

V.S.Sreeja

... Petitioner

Vs.

- 1.The State of Tamil Nadu
represented by its Secretary,
Department of School Education,
Fort St. George,
Chennai 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai 6-00 006.
- 3.The Chief Educational Officer,
Kanyakumari at Nagercoil,
Kanyakumari District.
- 4.The District Educational Officer,
Thuckalay 629 175,
Kanyakumari District.
- 5.The Correspondent,
Yettacode Higher Secondary School,
Yettacode, Veeyannoor Post,
Thiruvattar 629 177.
Kanyakumari District.
- 6.B.B.Kabeer Dhas
The 6th respondent is impleaded
as per the order of this Court
in W.M.P.(MD).No.14809 of 2016,
dated 04.03.2021.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the fourth respondent District Educational Officer to approve forthwith the appointment of the petitioner as B.T.Assistant (Maths) in the fifth respondent School viz., Yettacode Higher Secondary School, Yettacode, Thiruvattar, Kanyakumari District with effect from the date of petitioner's appointment viz., 10.06.2013 with all attendant benefits including the arrears of salary and allowance.



For Petitioner : Mr.Ragatheesh Kumar
for Mr.T.Cibi Chakraborty
For R1 to R4 : Mr.C.M.Marichelliah Prabhu
For R5 : Mr.S.Saji Bino
For R6 : Mr.S.C.Herold Singh

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O R D E R

This writ petition has been filed for a direction to the fourth respondent District Educational Officer to approve forthwith the appointment of the petitioner as B.T.Assistant (Maths) in the fifth respondent School viz., Yettacode Higher Secondary School, Yettacode, Thiruvattar, Kanyakumari District with effect from the date of petitioner's appointment viz., 10.06.2013 with all attendant benefits including the arrears of salary and allowance.

2. The case of the petitioner is that the petitioner was working as Secondary Grade Teacher in the fifth respondent School. The fifth respondent School is a recognised, aided and minority educational institution. One post of Secondary Grade Teacher in the fifth respondent School fell vacant on 01.06.2013, due to the retirement of the then incumbent A.Mary Bai on 31.05.2013. In that vacancy, the fifth respondent School appointed the petitioner as B.T.Assistant (Maths), on 10.06.2013. The fifth respondent School submitted a proposal to the fourth respondent District Elementary Officer, on 10.06.2013, for approval. However, the said D.E.O., refused to accept the proposal, in the light of the writ petition in W.P.(MD).No.15376 of 2013 pending before this Court. The said writ petition was dismissed on 23.04.2015. After dismissal of the above writ petition, again, the fifth respondent School submitted a proposal on 10.06.2013, seeking to approve the appointment of the petitioner. As there was no response, the fifth respondent School made a representation to the D.E.O., on 20.01.2016, requesting to approve the petitioner's appointment. Thereafter, the fourth respondent returned the proposal, vide his proceedings dated 01.02.2016, asking the Headmaster of the School to submit reason for two years delay in submitting the proposal. Thereafter, the Headmaster resubmitted the proposal to the D.E.O., on 11.03.2016, explaining that the delay caused due to the pendency of the W.P.No.15376 of 2013 and the same was dismissed on 23.04.2015. However, the D.E.O. did not pass any orders till date. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the petitioner was appointed in the year 2013, due to the pendency of the writ petition, the petitioner's appointment was not approved by the fourth respondent and subsequently, there was a dispute arose in the Management. However, the petitioner's appointment was made prior to the dispute. Hence,



there is no legal impediment to approve the appointment of the petitioner. Therefore, he prayed for a direction to the fourth respondent District Educational Officer to approve the appointment of the petitioner as B.T.Assistant (Maths) in the fifth respondent School.

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4. Per contra, the learned counsel appearing for the fifth respondent School would submit that admittedly, there was a dispute in the Management for managing the affairs of the School and the aggrieved party already filed a suit in O.S.No.82 of 2016, for declaring the sixth respondent as a Correspondent. The said suit is still pending and the petitioner's appointment was not made by the Approved School Committee and the petitioner's appointment was made by the rival group.

5. Considering the facts and circumstances of the case, though the petitioner claimed that prior to the Management dispute, her appointment was made, the fact remains that the issue for appointment of Correspondent was pending in the suit in O.S.No.82 of 2016.

6. In view of the above, the prayer sought for by the petitioner in this writ petition cannot be considered. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to work out the remedy, in the manner known to law, after disposal of the civil suit in O.S.No.82 of 2016. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai 600 009.



2.The Director of Elementary Education,
College Road,
Chennai 6-00 006.

3.The Chief Educational Officer,
Kanyakumari at Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
Thuckalay 629 175,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-9158[F] dated 05/03/2021)

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-8942[F] dated
05/03/2021)

+1 CC to M/s.CIBI CHAKRABORTHY, Advocate (SR-8960[F] dated
05/03/2021)

Writ Petition (MD)No.16444 of 2016

04.03.2021

TP (CO)

TR(08.07.2021) 4P 8C