



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.10181 of 2017

and

W.M.P(MD)Nos.7822, 7823 and 8198 of 2017 & 9226 of 2020

P.Murugesan

... Petitioner

Vs

1. The District Educational Officer,
Cheranmahadevi,
Opposite to Ratna Theatre,
Tirunelveli Town,
Tirunelveli.

2. The Secretary,
Sri Ramakrishna Higher Secondary School,
Thisayanvilai,
Tirunelveli District.

3. P.Thingalarasi

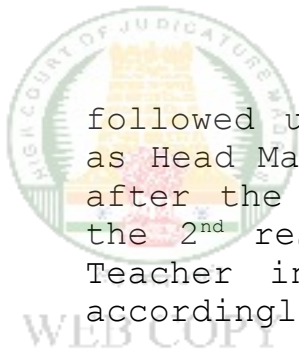
... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of mandamus, calling for the records relating to the proceedings of the 1st respondent made in O.Mu.No.1727/A2/2017, dated 26.05.2017 in approving the 3rd respondent as Head Master of 2nd respondent school and quash the same.

For Petitioner	:	Mr.R.Murali
For Respondent	:	Mr.C.M.Marichelliah Prabhu
No.1	:	Additional Government Pleader
For Respondent	:	Mr.T.Antony Arulraj
No.2	:	
For Respondent	:	Mr.B.N.Rajamohamed
No.3	:	

ORDER

The case of the petitioner is that the 2nd respondent school is functioning under the control of the 1st respondent with the aid of the government. The 2nd respondent school is a private school owned by the Thiruparaithurai Shri Ramakrishna Thapovanam and the management of the school is controlled by Secretary of the school, the 2nd respondent herein. The petitioner joined as B.T.Assistant in the school in the year 1993. The 2nd respondent has so far



followed uniformly a procedure of appointing senior most Teacher as Head Master of the school as and when vacancy arises. While so, after the retirement of the erstwhile Head Master on 30.01.2016, the 2nd respondent directed the petitioner being the senior most Teacher in the school, to act as Head Master in charge and accordingly, the petitioner acted so.

2.The 3rd respondent wanted to become Head Master. Therefore, the 2nd respondent compelled the petitioner to relinquish his promotion. In view of the compulsion the petitioner had given his non-willingness to the promotion to the 2nd respondent and immediately, the petitioner gave his protest letter to the educational agency and therefore, the 2nd respondent has sent a proposal to the 1st respondent for appointing the 3rd respondent as Head Master in the school.

3.However, the 1st respondent had returned the said proposal on the ground that the 3rd respondent is not the senior person and wanted to record the petitioner's non-willingness in the service register of the petitioner and after that the petitioner has been acting as Head Master for a long period. However, again proposal was sent to appoint the 3rd respondent as Head Master and the proposal was also approved by the 1st respondent. Therefore, the petitioner is before this Court.

4.The learned Counsel appearing for the petitioner would submit that the letter dated 18.08.2016 stated to be submitted by the petitioner expressing his unwillingness was obtained under coerce and compulsion and therefore, the petitioner immediately submitted his protest letter. However, without considering the same and without even conducting any enquiry on this aspect, the impugned order came to be passed. Therefore, the learned Counsel appearing for petitioner prayed that the impugned order passed by the 1st respondent may be set aside and the matter may be remanded back for fresh consideration of the authority after hearing the petitioner and the 3rd respondent.

5. The learned Additional Government Pleader appearing for the 1st respondent submitted that if this Court gives any direction for fresh consideration of the matter, the authority concerned will act so and a reasonable time may also be granted.

6.Heard the learned Counsel on either side and also perused the materials placed on record.

7.It is seen from records that the petitioner joined as B.T.Assistant in the 2nd respondent School in the year 1993. The Head Master post fell vacant on 30.04.2016 and therefore, the petitioner was directed to be in charge of the Head Master and the



petitioner is said to have given his unwillingness to the post. However, it is alleged by the petitioner that under coerce and compulsion, he had given his unwillingness. Therefore, proposal was sent for appointment of the 3rd respondent as Head Master and the same was returned on the ground that the petitioner is the senior most person. While so, the members of the school committee were directed to appear for enquiry before the 1st respondent. However, no one had appeared as per the direction. Under such circumstances the impugned order came to be passed.

7.However, in view of the submission made on either side, this Court is inclined to remand the matter to the 1st respondent for considering the issue afresh since the petitioner also alleges that the letter dated 18.08.2016 was obtained by coerce and compulsion.

8.Therefore, the matter is remanded to the 1st respondent, who shall consider the matter afresh after affording an opportunity of hearing to the petitioner, 2nd and 3rd respondents including the school committee and pass appropriate orders on merits and in accordance with law as expeditiously as possible and communicate the decision taken there on to the petitioner.

9.With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

To

1. The District Educational Officer,
Cheranmahadevi,
Opposite to Ratna Theatre,
Tirunelveli Town,
Tirunelveli.



2. The Secretary,
Sri Ramakrishna Higher Secondary School,
Thisayanvilai,
Tirunelveli District.

+2 CC to MR.R.MURALI, Advocate (SR-10625, 10693[F] dated
12/03/2021)

+1 CC to SPL GP (SR-10884[F] dated 12/03/2021)

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