

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2680 of 2015
and W.M.P.No.1 of 2015

M.Thenmozhi

...Petitioner

..Vs..

- 1.The Director of School Education,
D.P.I. Compound, Nungambakkam,
Chennai-600034.
- 2.The Chief Educational Officer,
Chennai-600015.
- 3.District Educational Officer,
Central Madras, Chennai-600015.
- 4.Avvai Home TVR Girls Higher Secondary School,
represented Secretary & Correspondent,
No.41, Besant Avenue, Adayar, Chennai-600020.
- 5.V.Jyothi Nandini
6. The Joint Director of School Education,
(Higher Secondary), DPI Compound,
Nungambakkam, Chennai-34.
(R6 impleaded as per order dt.12.01.2018
in WMP.38031/17 in WP.2680/15)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified mandamus, to calling for the records of th fourth respondent culminating in the order dated 20.01.2015 and quash the same and consequently direct the fourth respondent to submit proposal to the third respondent to regularise the service of the petitioner as B.T.Assistant (Tamil) taking into account the service rendered by the petitioner for the period of 05.06.2002 to 06.01.2006 and consequently promote the petitioner as a P.G.Assistant (Tamil) under the fourth respondent Management.

For Petitioners : Mr.S.M.Deenadayalan

For Respondents : Mr.A.M.Ayyadurai (for R1 to R3 &R6)
Government Advocate

: Mr.N.L.Rajah (for R4) Senior Advocate,
for Mr.R.Kumar

: Ms.Uma Maheswari (for R5)

ORDER

The order dated 20.01.2015 passed by the Correspondent of the 4th respondent School is under challenge in the present writ petition.

2. The grievances of the writ petitioner is that she was engaged as B.T. Assistant by the School Management from the year 2002 onwards. However, the approval of the appointment was granted only during the year 2006, merely on the ground that the Government imposed ban for a period of five years with effect from the year 2001. In this regard, the petitioner has not produced the appointment order as B.T. Assistant. Therefore, the learned senior counsel appearing on behalf of the 4th respondent School made a submission that such elaborate adjudication cannot be done in a writ proceedings and there is a provision of filing an appeal under the Act, more specifically, an appeal is contemplated under Rule 15(4)(A) of the Tamil Nadu Recognized Private School Regulation Rules.

3. When a statutory appeal provision is contemplated, the aggrieved person is expected to exhaust the said remedy. At the first instance for adjudication of the disputed facts, with reference to the documents and evidences made available, High Court cannot conduct a roving enquiry in respect of such disputed facts in a writ proceedings under Article 226 of the Constitution of India. That apart, the factual findings of the Original Authority as well as the Appellate Authority would be of greater assistance for the High Court for the purpose of exercise of the power of judicial review in an effective manner. Thus, exhausting the statutory remedy at no circumstances to be undermine, the aggrieved person is always expected to exhaust the statutory remedy for the purpose of redressal of their grievances.

4. This being the principles to be followed, the writ petitioner is at liberty to approach the competent Appellate Authority under the provisions of the Rules and in the event of such approach, the authorities competent shall take into consideration the period during which the writ petition was pending for the purpose of condoning the delay, if any and decide the issue on merits and in accordance with law, as expeditiously as possible. The petitioner is also at liberty to raise all the issues and the grounds raised in the writ petition.

5. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

psa/cse

To

- 1.The Director of School Education,
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Chennai-600015.
- 3.District Educational Officer,
Central Madras, Chennai-600015.
- 4.The Secretary & Correspondent,
Avvai Home TVR Girls Higher Secondary School,
No.41, Besant Avenue, Adayar,
Chennai-600020.

5.The Joint Director of School Education,
(Higher Secondary), DPI Compound,
Nungambakkam, Chennai-34.

+1cc to Mr.S.Veeraraghavan, Advocate SR.No.43397
+2cc to Mr.S.M.Deenadayalan, Advocate SR.No.43142
+1cc to the Government Pleader, SR.No.44000

W.P.No.2680 of 2015

SKM(CO)
CB(25/07/2022)