



W.P.No.26974 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition No.26974 of 2022
and
W.M.P.Nos.26189 & 26190 of 2022

A.G.Karthik

... Petitioner

-Vs-

1. The Director of Elementary Education,
DPI Campus, Chennai-600 006.
2. The Chief Educational Officer,
Thiruvallur.
3. The District Educational Officer,
Avadi, Chennai-600 071.
4. The Block Educational Officer,
Poonamallee, Chennai-600 071.
5. The Correspondent,
T.B.M Middle School (Tamil Baptist Mission),
10, Trunk Road,
Poonamallee- 600 056.

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writs of Certiorarified Mandamus, calling for the records of the 3rd respondent in Na.Ka.No. 930/ Aa1/ 2022 dated 17.08.2022



W.P.No.26974 of 2022

quash the same and consequently direct the respondents 1 to 3 to grant approval to the petitioner appointment with effect from 15.02.2021 in the post of Middle School Headmaster in the 5th respondent School with all service and monetary benefits.

For Petitioner : M/s.Dakshayani Reddy

For Respondents : Mr.S.Yashwanth
Additional Government Pleader
(For R1 to R4)

ORDER

This Writ Petition is disposed of at the time of admission, after hearing the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the first to fourth respondent.

2. The petitioner has challenged the impugned order passed by the third respondent District Educational Officer in his proceeding dated 17.08.2022 bearing Reference No.Na.Ka.No.930/Aa1/2022. By the impugned order, the third respondent has rejected the request of the petitioner, for approving the appointment of the petitioner as the Head Master of the T.B.M. Middle School, Poovirindavalli, Chennai-600 056. The reasons for rejection given in the



W.P.No.26974 of 2022

impugned order are as follows:

WEB COPY

(i) That the school already has another qualified teacher named Mr.N.Sudhakar, who is entitled to be promoted as the Head Master of the School.

(ii) The petitioner does not have requisite five years experience with TET qualification and also there are surplus teachers in other school.

3. The learned counsel for the petitioner submits that as far as the first objection is concerned, Mr.N.Sudhakar, who is a B.T.Assistant (Tamil) has relinquished his right to be promoted as Head Master vide letter dated 01.06.2019 and by another letter dated 29.09.2022 post facto. As far as the second objection is concerned, the learned counsel for the petitioner would submit that it has been repeatedly held that private minority institutions are outside the purview of TET regulation.

4. In this connection, the learned counsel for the petitioner has drawn attention to the decision of this Court rendered in the case of ***S.Metilda Jeyarai Vs. The Secretary to Government and others*** vide order dated ***11.04.2018***, in ***W.P.(MD)No.7793 of 2018***, wherein the learned Single Judge of this Court followed an earlier decision of this Court in the case of ***Secretary to Government of Tamil Nadu , Education Department Vs. S.Jeyalakshmi***



W.P.No.26974 of 2022

reported in **2016 (5) CTC 639**.

WEB COPY

5. As far as the surplus teachers is concerned, it is submitted that the petitioner has been appointed as the Head Master and there are no surplus Head Masters and the post of Head Master is falling vacant on account of superannuation of Mr.T.Joseph Jayakumar on 31.05.2019. Therefore, there is no impediment in approving the appointment of the petitioner as the Head Master/Principal of the aforesaid school.

6. The learned Additional Government Pleader for the first to fourth respondent on the other hand would submit that the impugned order is well reasoned and requires no interference and therefore the writ petition is liable to be dismissed.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the first to fourth respondent.

8. The impugned order passed by the third respondent District Educational Officer, Avadi, is contrary to the law settled by this Court in the case of ***Secretary to Government of Tamil Nadu , Education Department Vs.***



W.P.No.26974 of 2022

S.Jeyalakshmi reported in **2016 (5) CTC 639**.

WEB COPY

9. Incidentally, this matter has also been considered in the case of **Shree.G.K.Jain Higher Secondary School Vs. The Commissioner, Directorate of School Education and Others** in W.P.No.21430 of 2021 vide order dated 05.10.2021.

10. As far as non consideration of Mr.N.Sudhakar is concerned, he has relinquished his desire to be promoted as Head Master on 01.06.2019 and 29.09.2022. Surplus teachers in other school is not an impediment for approving the appointment of the petitioner as the Head Master of the third respondent School.

11. In the light of the above, I am of the view that the impugned order is unsustainable and is liable to be quashed and accordingly, it is quashed. However, the matter is remitted back to the third respondent to pass a fresh order in the light of the consent given by Mr.N.Sudhakar, B.T.Assistant (Tamil), relinquishing his right to promotion as the Head Master of the School vide letter dated 01.06.2019 and 29.09.2022. This exercise shall be carried out by the



W.P.No.26974 of 2022

respondents within a period of eight weeks from the date of receipt of a copy of this order.

12. Accordingly, this Writ petitioner stands allowed by way of remand with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

07.10.2022

Index: Yes/No
Speaking order: Yes/No
SHA/rgm



W.P.No.26974 of 2022

WEB COPY To

1. The Director of Elementary Education,
DPI Campus, Chennai-600 006.
2. The Chief Educational Officer,
Thiruvallur.
3. The District Educational Officer,
Avadi, Chennai-600 071.
4. The Block Educational Officer,
Poonamallee, Chennai-600 071.



WEB COPY



W.P.No.26974 of 2022

C.SARAVANAN, J.

SHA/rgm

W.P.No.26974 of 2022

and

W.M.P.Nos.26189 & 26190 of 2022

07.10.2022