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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.13362 of 2017

Alagappa Middle School,
represented by its
Manager Mr.A.Balachandran,
Puttai, Sankarapuram Union,
Villupuram District 606 401 … Petitioner

Vs

1. The Director of Elementary Education
College Road, Chennai 6

2. The District Elementary Education Officer,
Villupuram , Villupuram District.

3. The Assistant Elementary Education Officer,
Sankarapuram Union, Villupuram District.

4. Thiru Elangovan, (in personal capacity),
District Elementary Education Officer,
Cuddalore,
Villupuram District.

5. A.Rajendiran
6. A. Mohankumar

7. A. Murugan … Respondents

(R5 to R7 are impleaded as per order
dated 14.07.2017 in WMP No.16706/2017)

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the entire records connected with the impugned order of the 2nd respondent passed in Na.Ka.No.4833/Aa4/2016, dated 18.05.2017 and quash the same.

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For petitioner ... Mr. S.N.Ravichandran

For respondents ...Mr. M.R.Gokulakrishnan,
Addl. Gov. Pleader
for R1 to R3

... No Appearance for R4

... Mr.M.R.Jothi Manian,
for R5 to R7

ORDER

This writ petition has been filed, challenging the order passed by the 2nd respondent/District Elementary Education Officer, Villupuram, ordering direct payment of salaries to the aided school.

2. The brief facts leading to filing the writ petition is that, originally, the middle school was started by the petitioner's grandfather, namely, Algappa and grant-in-aid was also granted to the school. After his death, petitioner's father, Athimoolam was managing the affairs of the institution. Subsequently, he died in the year 2009. Thereafter, the other legal heirs of the deceased Athimoolam given a consent to the petitioner to manage the school and based on that, the petitioner was also recognized as the educational agency and has taken over the management. Thereafter, based on some complaint made against the petitioner, the proceedings has been initiated under Section 11(4) of the Tamil Nadu Private School Regulation Rules and enquiry was conducted by the 2nd respondent /District Elementary Education Officer, and the impugned order came to be passed on 18.05.2017, ordering direct payment of salary to the teaching and non- teaching staffs. Now, challenging the said order, the petitioner is before this Court with the writ petition.

3. The 2nd respondent filed counter affidavit, wherein, he has clearly admitted that he was transferred to the post of District Elementary Education Officer, by order of the first respondent, dated 15.05.2017 Cuddalore, and the said order was also received by him on 16.05.2017. Thereafter, on 18.05.2017, he joined duty in Cuddalore.

4. The learned counsel appearing for the petitioner submitted that the impugned order came to be passed on

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18.05.2017 and by that time, the concerned District Elementary Educational Officer, Villupuram has been transferred to Cuddalore on 15.05.2017 itself and he relieved from the post on 18.05.2017 and joined at Cuddalore on 18.05.2017. In those circumstances, the second respondent ought not to have passed the impugned order.

5. Heard both sides and carefully, perused the materials available on records.

6. Admittedly, the 2nd respondent, who has passed the impugned order, was transferred from Villupuram to Cuddalore, by order of the first respondent dated 15.05.2017 and he was relieved on 18.05.2017 and joined duty at Cuddalore on the same day. Hence, the second respondent ought not to have passed the impugned order and on that ground, the impugned order is liable to be set aside.

7. Accordingly, the impugned order, dated 18.05.2017 is set aside and the 2nd respondent District Elementary Education Officer, Villupuram, is directed to conduct a fresh enquiry, after giving an opportunity of personal hearing to the petitioner as well as the respondents 5 to 7, and pass suitable order on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. As already direct payment is ordered and still in force, the said order will be continued, till the final order is passed by the 2nd respondent.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

mrp
To

1. The Director of Elementary Education
College Road,
Chennai 6.

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Villupuram District.

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Sankarapuram Union,
Villupuram District.

4. Thiru Elangovan, (in personal capacity),
District Elementary Education Officer,
Cuddalore,
Villupuram District.

+1cc to Mr.S.N.Ravichandran, Advocate Sr.17844
+1cc to Mr.M.R.Jothimanian, Advocate Sr.18069
+1cc to the Government Pleader Sr.17777

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