



W.P.(MD)No.5137 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.5137 of 2020

and

W.M.P.(MD)Nos. 4483, 4484 of 2020 and 5476 of 2021

R.Amudha

... Petitioner

Vs.

1. The Director of School Education
O/o.The Director of School Education,
DPI Campus,
Chennai
2. The Chief Education Officer,
O/o.The Chief Education Officer,
Virudhunagar Town,
Virudhunagar District.
3. The District Education officer,
O/o.The District Education Officer,
Aruppukottai Town,
Virudhunagar District.



W.P.(MD)No.5137 of 2020

4. The Devangar Higher Secondary School
rep. by its Secretary,
Aruppukottai Town-626 101,
Virudhunagar District.

5. S.Manimaran

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order made in Na.Ka.No.1161/E1/2020 dated 20.02.2020 on the file of the second respondent and quash the same as illegal and arbitrary.

For Petitioner : Mr.K.Chelladurai

For Respondents : Mr.S.Shaji Bino - for R1 to R3
Special Government Pleader

No Appearance - for R4 & R5

ORDER

This writ petition has been filed to quash the impugned order made in Na.Ka.No.1161/E1/2020 dated 20.02.2020 on the file of the 2nd respondent and quash the same as illegal and arbitrary.



W.P.(MD)No.5137 of 2020

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2. The learned counsel for the petitioner submitted that the petitioner had possessed the qualification of M.A. (Economics) and B.Ed., degree and he is eagerly waiting for the teaching post in Economics subject. However, the petitioner came to know that the fourth respondent School issued a publication on 06.04.2018 to fill up the Post Graduate Assistant in Economics which is fell vacant due to the retirement of one Thilagavathi Navamani, which is a permanent post. Therefore, the petitioner submitted a application for the said post on 07.04.2018. The School Committee had selected the petitioner to the said post and an appointment order was issued on 18.04.2018 and the petitioner also joined on the same day. Thereafter, the fourth respondent sent a proposal to the third respondent for approval of his appointment as P.G. Assistant (Economics). In the mean while, the fifth respondent challenging the petitioner's appointment had filed a writ petition before this Court in W.P.(MD)No.9073 of 2018 on the ground that he was promoted as P.G. Assistant (Economics) on 01.06.2015 by the then Secretary of the School and the proposal sent by the fourth respondent was returned by the third respondent on 01.08.2017 stating that the promotion



W.P.(MD)No.5137 of 2020

given to the petitioner was not approved Secretary of the School. Further the School was under the direct payment of the third respondent and in which the petitioner was added as sixth respondent. Thereafter, the writ petition was allowed on 22.04.2019. As against which, the petitioner preferred a writ appeal before this Court in W.A.(MD)No.601 of 2019 and the fourth respondent school has also filed a separate W.A.(MD)No.581 of 2019. Apart from that, the senior most teacher working as B.T. Assistant namely, Saravanan in the School also filed W.A.(MD)No.660 of 2019 and the said Saravanan also filed W.P.(MD)No.13848 of 2019 challenging the order of the fifth respondent. But the writ appeals and writ petition were clubbed together and the Division Bench of this Court had dismissed the writ appeals filed by the Management, petitioner and one Saravanan, with a direction to the respondent to approve the appointment of the fifth respondent within a period of six weeks and ordered for direct payment, against which, the petitioner filed S.LP(C) Diary No.22883 of 2019 and subsequently, the same was withdrawn with liberty to the petitioner to file a review petition in C.M.P.(MD)No.11913 of 2019 in Rev.Apln.(MD)SR.No.84050 of 2019. In the mean time, the fifth respondent filed a contempt



W.P.(MD)No.5137 of 2020

petition before this Court in Cont.Petn.(MD)No.1368 of 2019 for the wilful disobedience and thereafter, the fifth respondent post was approved by the official respondents. Challenging the said approval order the present writ petition is filed.

3. Considering the facts and circumstances of this case, already the petitioner as well as the School Management, including one Saravanan lost the case before the Division Bench of this Court and the same has ended before the Apex Court and mere filing of review application will not be a par for approving the fifth respondent, however, the approval of the fifth respondent is subject to the outcome of the review application.

4. Mere pendency of the review application will not par for the official respondents for approval of the fifth respondent. Hence, the prayer sought for in this writ petition cannot be granted, since the approval is based on the order passed by the Division Bench of this Court.



W.P.(MD)No.5137 of 2020

WEB COPY

5. Accordingly, this writ petition is dismissed. However, the said approval of the fifth respondent is subject to the outcome of the review application filed by the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

19.12.2022

Index : Yes / No

Speaking Order : Yes / No

RM



W.P.(MD)No.5137 of 2020

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WEB COPY

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W.P.(MD)No.5137 of 2020

M.DHANDAPANI,J.

RM

W.P.(MD)No.5137 of 2020

19.12.2022