



W.P.(MD).No.6470 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.6470 of 2019

and

W.M.P.(MD).No.5181 of 2019

S.Nagaretnam

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of State Council of
Educational Research and Training,
DPI Compound,
College Road,
Chennai – 600 006.
- 3.The Principal,
District Institute of Education and Training,
Vanaramutti,
Tuticorin District.
- 4.Valliamaiyar Hindu Teachers Training Institute,
Represented by its Secretary,
Kulaseharanpatinam – 628206,
Tuticorin District.

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the fourth respondent herein in proceedings No.333/2019 dated 08.03.2019, quash the same, and further direct the respondents herein to issue necessary orders deploying the petitioner herein to any other institutions maintained or aided by the State Government in terms of Section 26 of the T.N. Recognised Private Schools (Regulation) Act with salary and other monetary benefits and continuity of service from 23.07.2017 onwards.

For Petitioner	: Mr.E.V.N.Siva
For R-1 to R-3	: Mr.V.Nirmal Kumar, Government Advocate.
For R-4	: Mr.Vinoharan for Mr.G.Prabhu Rajadurai.

ORDER

In view of the insufficient strength of students, the fourth respondent School had sought for the permission of the educational authorities to close the School. In contemplation of such a closure, the services of the petitioner were retrenched through the impugned order, dated 08.03.2019.



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2. In the counter affidavit filed by the fourth respondent School, it is stated that the School had refrained from admitting new students from the year 2015-2016 and from the year 2016-2017, though they had completely closed down the School pursuant to the resolutions passed by the School Committee, they claim to have submitted a form to the educational authorities for closure of the School, along with a declaration, on 19.07.2017, based on which, the Government had passed orders on 04.02.2019, directing the School to adhere to the procedure contemplated under Section 26 for re-deployment of the teachers in the sanctioned post, to other private schools.

3. The procedure for closure of a private school is provided under Section 29 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, whereby, it is mandatory for the School to obtain the prior approval of the competent authority, after substantiating the arrangements for continuance of the instruction of the students have been made. Section 26 of the Act provides for absorption of teachers, who could be retrenched owing to the closure or otherwise, whereby, such teachers, who have been rendered as surplus, require to be re-deployed to other private schools.



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4. The Government letter, dated 04.02.2019, states that in case the teachers are rendered as surplus owing to the contemplated closure, they are required to be re-deployed to the educational training Institutes run by the same management and if such an arrangement is not feasible, then to the other training Institutes.

5. In the instant case, the fourth respondent Institute, in contemplation of the prior approval of the educational authorities for closure of their Institute, had prematurely retrenched the petitioner herein from the post of Principal. This retrenchment is opposed to the procedure contemplated under Section 26, as well as the Government letter, dated 04.02.2019. In other words, when the fourth respondent intended to close down their Institute, they ought to have re-deployed the petitioner to any other Institute under their own corporate management or when such arrangement is not feasible, to other Institutes. Both these procedures have been violated and therefore, the impugned order, dated 08.03.2019, retrenching the services of the petitioner, cannot be sustained.

6. Accordingly, the impugned order, dated 08.03.2019, on the file of the fourth respondent is quashed. Consequently, there shall be a direction to the fourth respondent herein to submit a fresh proposal to the second respondent



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herein for deploying the petitioner, as well as any other surplus teachers of their Institute, seeking for prior approval of closure of the School, as well as for re-deployment of the services of the petitioner to other Institutes, as contemplated under Section 26 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of such a proposal, the second respondent herein shall forthwith pass appropriate orders on the request for approval of the closure of the fourth respondent Institute, as well as for re-deployment of the petitioner to other Institutes, in conformity with the procedure contemplated under the provisions of the Tamil Nadu Private Schools (Regulation) Act. Such final orders shall be passed, at least within a period of eight (8) weeks from the date of receipt of the proposal.

7. This Writ Petition stands allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes/ No
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To

WEB COPY

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M.S.RAMESH, J.

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