



W.P(MD)No.12749 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12749 of 2022

and

W.M.P.(MD)Nos.9038 & 12991 of 2022

S.Suganthi

... Petitioner

Vs.

1.The District Educational Officer,
Usilampatti,
Madurai District.

2.The Block Educational Officer,
Usilampatti,
Madurai.

3.The Correspondent,
TELC Higher Secondary School,
Keelapudur,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records relating to the impugned order passed by the 1st respondent vide proceedings in Na.Ka.No.3317/Aa3/2019 dated 26.09.2020 and quash the same and consequently, direct the 1st respondent to approve the appointment of the petitioner in the post of secondary grade teacher in the light of the proposal sent



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by the 3rd respondent dated 21.03.2012 from the date of petitioner's appointment in the said post.

For Petitioner : Mr.B.Prahald Ravi
For R1 & R2 : Mr.J.AShok
Additional Government Pleader
For R3 : Mr.J.Imrankhan

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for R1 & R2 and the learned counsel appearing for the school management.

2. The writ petitioner was appointed as Secondary Grade Teacher in the 3rd respondent school vide order dated 02.01.2012 by the Chairman, Education Board, TELC. Proposal was submitted for approving the said appointment. By the impugned order dated 26.09.2020, the first respondent rejected the proposal. Challenging the same, this writ petition has been filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. The petitioner's counsel would state that the third respondent is an aided minority



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institution. The writ petitioner was appointed only against a sanctioned post.

The petitioner is having necessary education qualification also. The petitioner has rendered blemishless service. The first respondent by denying approval has committed a serious error. He called upon this Court to set aside the said order and allow the writ petition and grant relief as prayed for.

4. The learned standing counsel appearing for the school management submitted that the impugned order is a clear violation of the fundamental right guaranteed under Article 30 of the Constitution of India. He also called upon this Court to allow the writ petition.

5. The official respondents have filed a detailed counter affidavit and the learned Special Government Pleader took me through its contents. He submitted that the impugned order does not call for interference.

6. I carefully considered the rival contentions and went through the materials on record.

7. There is no dispute that the third respondent school is an aided minority institution. It is coming under the corporate management of TELC.



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A mere look at the appointment order of the writ petitioner indicates that the petitioner was appointed as Secondary Grade Teacher in the third respondent school in the place of Mrs.P.Mercy who has been transferred.

8. The learned Special Government Pleader drew my attention to the proceedings bearing Na.Ka.No.5612/A3/2011, dated 30.01.2012 issued by the District Educational Officer, Madurai. Under the said proceedings, approval for transfer of Mrs.P.Mercy from the third respondent school to another school of TELC had been approved. The approval was however subject to two conditions.

(i) The first condition was that in the resulting vacancy, no new appointment was to be made.

(ii) It was further directed that the corporate management must fill up their resulting vacancies by deploying surplus teachers available in the other schools run by them.

The stand of the learned Additional Government Pleader is that the appointment of the petitioner is in direct and clear violation of the aforesaid order dated 30.01.2012.



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9. The learned counsel appearing for the writ petitioner would point out that even before issuance of the said proceedings on 30.01.2012, the petitioner was appointed by the Management on 02.01.2012. It is true that the appointment of the petitioner was prior in point of time. But then, it was made during the pendency of the proposal submitted by the school management for approving the transfer of Mrs.P.Mercy. It is not as if the transfer of Mercy was entirely within the discretion of the corporate management. That was a case of transfer from one District to another District. In the very nature of things, approval from the Education Department was required. While granting such approval, the aforesaid conditions were stipulated. I have no doubt in my mind that the appointment of the petitioner was made in contravention of the conditions stipulated by the District Educational Officer, Madurai. Even though the writ petitioner was appointed few weeks earlier, nothing stopped the management from relieving the petitioner immediately after receiving the aforesaid proceedings dated 30.01.2012. The management has not done so.

10. The learned Additional Government Pleader made available the details of the financial burden suffered by the State. As per the signed statement of the Block Educational Officer, Usilampatti issued on 07.11.2022, in the 7 schools run by TELC Corporate Management, there are 17 surplus teachers and that the Government has paid a sum of Rs.1,24,31,819/- for the



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academic years 2021-2022. When there are surplus teachers available, the Corporate management ought to have filled up in the resulting vacancies only by appropriately redeploying them. Instead, they could not have gone for direct recruitment. By doing so, the Management is only adding financial burden to the State. This kind of approach cannot be appreciated. At the same time, the petitioner's condition must be noted. She did not make any misrepresentation. She was appointed by the school management and she is working as Secondary Grade Teacher for the last 12 years.

11. Therefore, the management has to necessarily pay salary due and payable to her. Even while sustaining the order impugned in the writ petition, I direct the third respondent to pay salary payable to the writ petitioner. The entire arrears shall be paid within a period of twelve weeks from the date of receipt of a copy of this order. Whether to continue the writ petitioner under their self financial scheme or not is left to the wisdom of the management.

12. The writ petition is dismissed with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To

1. The District Educational Officer,
Usilampatti,
Madurai District.

2. The Block Educational Officer,
Usilampatti,
Madurai.

G.R.SWAMINATHAN, J.



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