



WP(MD)No.16596 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **18.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.16596 of 2021

V.Selvam

... Petitioner

/vs./

- 1.The Director of School Education,
School Education Department,
DPI Campus, College Road,
Chennai – 600 006.
- 2.The Chief Educational Officer,
Education Department,
Theni.
- 3.The Secretary,
Sri Varadha Venkataramana
Higher Secondary School,
Venkatachalampuram,
Theni Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first and second respondents i.e., the Chief Educational Officer, Theni in his R.C.No. 4321/Aa1/2019 dated 14.06.2021, within a specified time frame that may be fixed by this Court.



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For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.Shaji Bino,
Special Govt. Pleader for R1 & R2

Mr.T.Antony Arul Raj for R3

ORDER

The petitioner herein was appointed as a B.T.Assistant (Maths) in the third respondent school in the year 1995. Based on certain charges levelled against him, he was subjected to an enquiry and ultimately, the charges against him were held to be proved. Consequently, the Secretary of the School Committee had dismissed the petitioner from service, through a letter dated 05.07.2019. When approval for order of dismissal was sought for, the same came to be rejected by the CEO on 14.07.2020, on the ground that the School Committee had not sought for prior approval of the Education Authorities as required, under Section 22(1) of “The Tamil Nadu Recognized Private Schools (Regulations) Act, 1973” (hereinafter referred to as “the Act”). The appeal against this order by the School Committee dated 22.03.2021, was also rejected on 14.06.2021, by the CEO. The petitioner now seeks for a direction to the



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official respondents to implement their orders of rejection of the dismissal order.

2. The only ground on which the order of dismissal was set aside by the authorities is that, the School Committee has not sought for prior permission of the Educational Authorities before the order of dismissal is passed. I do not find any infirmity in such a finding, since Section 22(1) of the Act, imposes some mandatory conditions of prior approval to be obtained before dismissing a Teacher in private schools.

3. The learned counsel appearing for the third respondent School Committee submitted that the reasoning adopted by the Authorities cannot be sustained, since, even before the Management had dismissed the petitioner from the service, they had sent a proposal to the second respondent herein on 28.11.2016, seeking for prior permission for dismissing the petitioner. The second respondent herein had also acknowledged the receipt of such a permission, through a proceedings in நக.எண்.6637/அ5/2017, dated 19.01.2017. In this background, the learned counsel submitted that since a proposal was already pending and



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no action was taken on the same by the Authorities, the school had no other option, but to dismiss the petitioner herein.

4. The learned Special Government Pleader appearing for respondents 1 and 2 submitted that Section 22(1) of the Act mandates prior permission of the Authorities before an order of dismissal of a teacher is passed and hence, the proposal for post approval of the dismissal order has been rightly rejected.

5. A perusal of the proceeding of the second respondent dated 19.01.2017, reveals that the School Committee had in fact, sent a letter on 28.11.016, seeking for prior permission for dismissing the petitioner herein from services. It is their case that the approval petition has not been acted upon, till date. When the Authorities had not passed orders on the third respondent's application, seeking for prior permission for dismissing the petitioner, the school committee has no authority to dismiss such a Teacher, on the ground that the proposal is pending before the Authorities. A mere pendency of the applications, seeking for prior permission, will not justify the dismissal order and hence, I do not intend



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to interfere with the subsequent orders passed by the Authorities, rejecting the third respondent's proposal for approval of the dismissal order. Consequently, the petitioner herein will be entitled for reinstatement into service, since the order of dismissal has been found to be illegal and invalid.

6. Nevertheless, since the third respondent claims that his prior approval, seeking for dismissal of the petitioner from the services, is still pending before the second respondent herein, it will be appropriate to direct them to pass orders on the same, within a stipulated time. At this juncture, it is brought to the notice of this Court that the school is at present under the Direct Management of the Educational Authorities.

7. In the light of the above findings, there shall be a direction to the respondents 1 and 2 herein to forthwith pass orders, reinstating the petitioner back into service with effect from 05.07.2019, together with all service and monetary benefits, including the arrears of salary. The second respondent herein shall pass appropriate orders on the proposal sent by the third respondent herein dated 28.11.2016, within a period of three (3) months from the date of receipt of a copy of this order.



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8. With the above direction, this Writ Petition stands allowed. No

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costs.

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vsm

Index : Yes

Internet : Yes



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M.S.RAMESH, J.

vsm

Order made in
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Dated:
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