



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.01.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Cont.P. (MD) .No.1090 of 2019

in

W.P. (MD) .No.11936 of 2018

WEB COPY

R.Banupriya

... Petitioner

vs.

1.Mrs.Vasanth,

District Elementary Educational Officer,

Now District Educational Officer, Tuticorin District.

2.Mrs.Balasundari,

Assistant Elementary Educational Officer,

Now Block Educational Officer, Karungulam,

Tuticorin District.

... Respondents

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, to punish the respondents for their wilful deliberate disobedience of the order passed by this Court in W.P.(MD).No.11936 of 2018, dated 08.06.2018.

Prayer in WP(MD) . 11936/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in his proceedings in O.Mu.No. 512/A5/2018 dated 10.04.2018 and quash the same and direct the respondents to approve the appointment of the petitioner from the date of appointment i.e., 18.08.2017 with all consequential benefits.

For Petitioner : Mr.V.Paneerselvam

For Respondents : Mr.K.S.Selvaganesan

Additional Government Pleader

ORDER

The present petition is filed alleging contempt as against order dated 08.06.2018. The prayer sought for by the petitioner was to quash the order passed by the District Elementary Educational Officer and consequential direction sought for approval of appointment of the petitioner from the date of her appointment ie., on 18.08.2017.

2. The operative portion of the order is contained at paragraphs - 16 to 18 that are extracted below:

"16.In this case, the impugned order has been passed by the first respondent citing the said reason of non-deployment of excess Teachers by the same Management to some other Schools, which cannot be a reason to reject the approval of the appointment of the petitioner, as the



petitioner has been appointed in a sanctioned vacancy of the third respondent School and no other infirmity has been found by the authorities for rejecting approval for such appointment made to the petitioner.

17. In view of the above, this Court is of the firm view that the impugned order does not have any acceptable reason and therefore, it is liable to be quashed. Accordingly, it is quashed and the matter is remitted back to the first respondent for reconsideration, where the first respondent must take into account the staff sanctioned strength of the third respondent School and other requirements viz., qualification, etc., for the purpose of giving approval to the petitioner's appointment and the reason of non-deployment of excess Teachers by the third respondent School Management in respect of some other School shall no longer be a reason to be cited by the authorities for taking a decision regarding approval of the petitioner's appointment.

18. The needful as indicated above shall be undertaken by the first respondent and an order to that effect shall be passed by him within a period of six weeks from the date of receipt of a copy of this order."

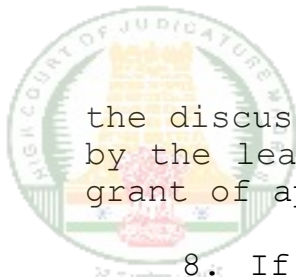
3. At paragraph -16, the learned single Judge has held that the petitioner has been appointed in a sanctioned post and as far as the impugned order was concerned, no other infirmity was found. Thus, he quashes order dated 18.08.2017, that had rejected the approval sought for, for the petitioner's appointment.

4. Learned judge has thereafter remitted the matter to R1 for 'reconsideration', directing him to take into account various parameters including staff sanctioned strength of R3 School, qualifications of the petitioner etc., 'to decide upon the grant of approval to the petitioner's appointment'.

5. He states that non-deployment of excess teachers by R3 School to an other School shall no longer be cited as a reason by the authority. The direction of the learned single Judge involves a detailed exercise to be undertaken by the respondents, after hearing the petitioner. Incidentally, the challenge of the State to order dated 08.06.2018 has also been rejected by the Division Bench in Writ Appeal.

6. Mr.K.S.Selvaganesan, learned Additional Government Pleader circulates proceedings in Na.Ka.No.3519/A2/2020, dated 28.08.2020 stating that it has been passed in compliance of order dated 08.06.2018

7. Learned counsel for the petitioner submits that the above proceedings do not tantamount to compliance, as according to him, a positive direction has been issued earlier. I think not, in light of



the discussion in the preceding paragraph that what has been ordered by the learned Judge is a reconsideration of the matter and not the grant of approval per se.

8. If at all the petitioner is aggrieved by proceedings dated 28.08.2020, she is at liberty to challenge the same, in a manner known to law. This Contempt Petition is dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.Mrs.Vasanth,
District Elementary Educational Officer,
Now District Educational Officer,
Tuticorin District.

2.Mrs.Balasundari,
Assistant Elementary Educational Officer,
Now Block Educational Officer,
Karungulam,
Tuticorin District.

+1 CC to M/s.SPL.GP (SR-772[F] dated 07/01/2022)

ORDER MADE IN

Cont.P.(MD) .No.1090 of 2019

06.01.2022

MK/28.01.2022/3P/4C