



W.P(MD)No.2923 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 27.04.2022

DELIVERED ON : 07.07.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.2923 of 2018

and

W.M.P(MD).No.3083 of 2018

M.Sathaiah

... Petitioner

Vs.

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Director of Adi Dravidar Welfare Board,
O/o. The Directorate of Adi Dravidar Welfare Board,
Chennai.
- 3.The District Adi Dravidar Welfare Officer,
O/o District Adi Dravidar Welfare Officer,
Collectorate,
Thoothukudi.
- 4.The Chief Educational Officer,
O/o Chief Educational Officer,
Devarpuram Road,
Thoothukudi.
- 5.The District Educational Officer,
O/o District Educational Officer,
Kovilpatti Road,
Thoothukudi.



W.P(MD)No.2923 of 2018

6.Muthu Karuppan Harijan Higher Secondary School,
Rep. by its Secretary,
Subbammalapuram,
Sillankulam Post,
Ottapidaram Taluk,
Thoothukudi District.

7.The Secretary,
Adi Dravidar Welfare Board.
(R7 is suo motu impleaded vide
Court order dated .05.2022)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fifth respondent in his proceedings Na.Ka.No.4462/A3/2015 dated 31.01.2017 and quash the same and consequently directing the respondents 1 to 5 herein to ensure the petitioner to discharge his duties as B.T.Assistant (Social Science) in the sixth respondent school without any hindrance by the sixth respondent by taking action against the sixth respondent school for illegally keeping the petitioner away from the school based on petitioner's representation dated 03.12.2015.

For Petitioner	: Mr.G.Thalaimutharasu
For R1 to R5	: Mr.V.Omprakash Government Advocate (Civil Side)
For R6	: No Appearance



W.P(MD)No.2923 of 2018

ORDER

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This writ petition has been filed for a writ of Certiorarified Mandamus to quash the impugned order passed by the fifth respondent in his proceedings Na.Ka.No.4462/A3/2015 dated 31.01.2017 and consequently directing the respondents 1 to 5 herein to ensure the petitioner to discharge his duties as B.T. Assistant (Social Science) in the sixth respondent school without any hindrance by the sixth respondent by taking action against the sixth respondent school for illegally keeping the petitioner away from the school based on petitioner's representation dated 03.12.2015.

2. The brief facts of the case is that the petitioner belongs to Hindu-Scheduled Caste Community and he is working as B.T. Assistant (Social Science) in the sixth respondent school right from the year 2000. The sixth respondent school is being run by Muthu Karuppan Welfare Trust. The said school was initially run by the said trust under self-financing scheme. Thereafter, the sixth respondent school was brought under the Adi Dravidar Welfare Board and the petitioner was brought into the regular service under District Adi Dravidar Welfare Office from 01.06.2006 onwards. At the time of absorbing the petitioner into the Adi



W.P(MD)No.2923 of 2018

Dravidar Welfare Office was given with a sum of Rs.4,000/- as salary.

The sixth respondent after getting petitioner's all original certificates, had consistently threatened the petitioner to sign in the Pay Bill without making any entries.

3. The contention of the petitioner is that the teachers working under Self Financing Scheme were absorbed into regular time scale of pay by the Adi Dravidar Welfare Department by accepting the sixth respondent management's request and which would be evident from the G.O.(Ms)No.98, Adi Dravidar and Tribal Welfare Department, dated 21.08.2006. Under the above Government Order, 45 teachers are brought into regular time scale of pay and the petitioner was one among them. The contention of the petitioner is that the sixth respondent school is powerful in the Department, no one working in the school are bold enough to question the high handed activities of the school. If anybody raise any finger against management they will be threatened by the Secretary.

4. In course of time, the petitioner's salary was increased to a sum of Rs.26,000/-. The contention of the petitioner is that the sixth



W.P(MD)No.2923 of 2018

respondent management is keeping all the petitioner's records like that of the appointment order and absorption in Adi Dravidar Welfare Office relating to the petitioner's service. The sixth respondent school is not paying the time scale of pay that is applicable to the petitioner, wherein, the school is receiving grant-in-aid, but the school has paid only Rs. 26,000/- as consolidated pay. The petitioner raised certain queries but the sixth respondent school is not paying the Government salary to the petitioner.

5. The sixth respondent's claim is that the petitioner is not one among the 45 teachers. The strength of the student is more than 3000 and the school is having 45 teachers. Over and above, some of the teachers are working in the school and the other teachers are paid consolidated pay under self-finance scheme. However, the petitioner submitted that the said contention of the respondents cannot be accepted since the petitioner was considered as regular employee and the petitioner was deputed for paper valuation in the year 2007, 2010, 2011, 2013 and 2015. The Sixth respondent school has also issued relieving orders to the petitioner while the petitioner was sent to paper valuation. In one of such certificate dated 15.04.2014, the school has admitted that the petitioner



W.P(MD)No.2923 of 2018

was working in the sixth respondent school. Though the petitioner was working in the sixth respondent school right from the year 2000 onwards, the school is not giving the actual salary to which the petitioner is entitled to. The sixth respondent school is harassing the petitioner in increasing manifold, the petitioner sent a representation, dated 14.09.2015 for taking action against the sixth respondent school management. In the said representation, the petitioner submitted that the Secretary Mr.K.Balamurugan and the Headmistress Mrs.K.Karpagam have threatened the petitioner and other teachers. Therefore, they have lodged a complaint before the Pasuvanthaani Police Station on 11.09.2015. The third respondent instead of taking action against the sixth respondent management gave a false reply, as if the petitioner was working under Self Financing College of the Muthu Karuppan Educational Trust.

6. After lodging the complaint, the sixth respondent school did not allow the petitioner and other teachers from signing in the Attendance Register from 15.09.2015 onwards. Even though, the petitioner was visiting the school daily, the Attendance Register was with the management and the petitioner was not permitted to sign in the



W.P.(MD)No.2923 of 2018

Attendance Register. Therefore, the petitioner was constrained to file W.P.(MD).No.22980 of 2015 but the said writ petition was withdrawn with a liberty to challenge the petitioner's oral termination on 21.12.2015. Thereafter, the petitioner filed another W.P.(MD).No.1148 of 2016 seeking for a declaration declaring that the petitioner's oral termination is bad and for other reliefs. This Court vide order dated 01.12.2016 has held that the original termination is bad in law and direct the fifth respondent to consider the petitioner's representation, dated 03.12.2015 and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of copy of this order. The respondents instead of conducting a fair enquiry into the petitioner's oral termination, has simply rejected the petitioner's appeal by stating that he has no authority to consider the petitioner's request vide impugned proceedings in Na.Ka.No.4462/A3/2015 dated 31.01.2017.

7. The contention of the petitioner is that as per G.O.(MD)No.98 dated 21.08.2006 speaks about putting 45 teachers into regular time scale of pay apart from other teachers who are getting aid from the Educational Department, has not bothered about verifying the name list of 45 teachers. The petitioner's name would be in the list of 45 teachers and not



W.P(MD)No.2923 of 2018

in the other list. Therefore, the petitioner has filed this writ petition to quash the impugned order and to allow the petitioner to continue his work and time scale to the petitioner.

8. The fifth respondent filed counter stating that the sixth respondent school is receiving grant-in-aid from the fifth respondent for 6, 7 and 8 standards alone and the petitioner was not employed as teacher for 6, 7 and 8 standard and hence the fifth respondent has no information or record in respect of the appointment and oral termination of the petitioner from service. The petitioner had impleaded the fourth and fifth respondents as parties in W.P.(MD)No.1148 of 2016 unnecessarily and the petitioner has arrayed the fifth respondent as party in the present writ petition also. The teachers employed by the sixth respondent to handle 9 to 12 standard, no aid was granted by the Department. As per Section 14 A inserted by the Tamil Nadu Act 11/1989 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, no grant shall be paid to any class or course of instruction opened on or after the commencement of the academic year 1991-1992 in a private school in existence on the date of such commencement. Since 9th and 10th standard were opened in the year 1991-1992, and 11th and 12th standard were opened in the year 1993,



W.P(MD)No.2923 of 2018

the sixth respondent's school is not entitled for financial aid for 6 to 12 standard as per Section 14 A of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. But in G.O.Ms.No.98 Adi Dravidar and Tribal Welfare (A.thi-Na-9) Department dated 21.08.2006 financial aid was granted for 9 to 12 standard of the sixth respondent's school from the year 2006-2007 in two instalments in a year for every six months by the Adi-Dravidar and Scheduled Tribes Welfare Department. Since the petitioner was not employed for 6 to 8th standard, the petitioner was not paid a salary that is applicable to the regular employees under the category of grant-in-aid employees. The fifth respondent herein is not a competent authority to entertain appeal against the termination of the petitioner from service as per the oral order of the sixth respondent herein. Hence the impugned proceedings Na.Ka.No.4462/A3/2015 dated 31.01.2017 of the fifth respondent is sustainable in law. The petitioner herein was B.T.Assistant in High School Education, which is aided by the Adi Dravidar Welfare Board. Therefore, the petitioner cannot claim any direction against the School Education Department and hence prayed to dismiss the writ petition.

9. Heard Mr.G.Thalaimutharasu, the learned counsel for the



W.P(MD)No.2923 of 2018

petitioner and Mr.V.Omprakash, the learned Government Advocate (Civil Side) for the respondents 1 to 5 and perused the records.

10. It is an admitted fact that the sixth respondent school is an Aided Private School and the grant-in-aid was granted by the School Education Department only for standards 6 to 8 alone. The school is having until 12th standard and rest of the standards are coming under Self Financing Scheme. Thereafter through G.O.Ms.No.98 dated 21.08.2006 the grant-in-aid was granted by the Adi Dravidar Department for the standards 9, 10 & 11, 12. The petitioner is not working as teacher for standard 6 to 8 and hence, the petitioner was not brought under the regular employee category under School Education Department. Subsequently, in the year 2006 onwards, the Adi Dravidar Welfare Department has granted aid and the school was brought under the Department of Adi Dravidar Welfare Department for standards 9 to 12. Hence the contention of the School Education Department that the Adi Dravidar Welfare Department alone can considered the claim of the petitioner.

11. It is seen from the records that the petitioner was appointed by



W.P(MD)No.2923 of 2018

the Secretary, Muthu Karuppan Harijan Higher Secondary School and the school has every right to administer the school. The claim of the petitioner is that the Adi Dravidar Welfare Board is paying grant-in-aid and the school is not disbursing the salary as applicable under the grant-in-aid. The claim of the school is that the petitioner is not included in the list of 45 teachers and still the petitioner is continuing under the self-finance scheme only. But the claim of the petitioner is that the petitioner is coming under the list of 45 teachers and the school is getting the grant-in-aid but the school is not paying the same. This fact was refused by the school. It is seen from the records that the petitioner has not impleaded the Adi Dravidar Welfare Department and therefore, this Court *suo motu* implead the Director, Adi Dravidar Welfare Department. The Director Adi Dravidar Welfare Department shall consider the claim of the petitioner. If the petitioner is included in the list of 45 teachers and the school has not disbursed the salary of grant-in-aid, then the Director shall take action against the school. But if the petitioner is not coming under the said list of 45 teachers then the petitioner may approach appropriate court to get relief. The Director shall consider and pass orders within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.



WEB COPY



W.P(MD)No.2923 of 2018

07.07.2022

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Index :Yes/No

Internet : Yes/No

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WEB COPY



W.P(MD)No.2923 of 2018

S.SRIMATHY, J.

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W.P(MD)No.2923 of 2018

.05.2022