



W.P(MD)No.23027 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 31.10.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.23027 of 2015

and

M.P(MD).No.2 of 2015

Dr.P.Rajendra Prasanth,
Physical Education Teacher,
Nadar Saraswathi Higher Secondary School,
Usilampatti,
Madurai District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat,
Chennai-9.
- 2.The Director of School Education,
O/o.The Director of School Education Office,
College Road,
Chennai.
- 3.The Chief Educational Officer,
O/o.The District Educational Office,
Thallakulam,
Madurai,
Madurai District.
- 4.The District Educational Officer,
O/o. The District Educational Office,
Near Government Higher Secondary School,
Usilampatti, Madurai District.



W.P(MD)No.23027 of 2015

5.The Correspondent,
Nadar Sarawathi Higher Secondary School,
Usilampatti,
Madurai District.

... 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 issued by the 4th respondent in his proceedings அ.தி.மு.எண்.3747/ஆ3/2013, dated 14.08.2013 and consequential order issued by the 4th respondent in his proceedings in ஓ.மு.எண்.6498/ஆ3/2013, dated 29.01.2014 and quash the same as illegal and consequentially to direct the respondents to approve the promotion of the petitioner as Physical Education Director in the 5th Respondent school with effect from 17.02.2011 within the period that may be stipulated by this Court.

For Petitioner	: M/s.J.Irfana Fathima For M/s.Ajmal Associates
For R1 to R4	: Mr.J.John Rajadurai Government Advocate (Civil Side)

ORDER

This writ petition is filed for a writ of Certiorarified Mandamus to quash the impugned order, dated 14.08.2013 and consequential order, dated 29.01.2014 and to direct the respondents to approve the promotion of the petitioner as Physical Education Director in the 5th respondent school with effect from 17.02.2011.



W.P(MD)No.23027 of 2015

WEB COPY

2. The brief facts of the case are that the 5th respondent school is an Aided Minority Institution. The association, namely, Usilampatti Nanthathi Nadar Uravin Murai Pothu was established way back in the year 1940. The said association started the 5th respondent school, namely, Nadar Saraswathi Vidhya Salai Elementary School and subsequently upgraded upto the level of Higher Secondary school. The school receives grant-in-aid from the Government. The association filed a suit in O.S.No. 1682 of 1981 on the file of District Munsif Court, Thirumangalam seeking for a declaration that the school was administered by a denomination and the suit is dismissed. Thereafter, an appeal was filed in A.S.No.120 of 1985 on the file of Principal Subordinate Court, Madurai. The said appeal was allowed and the suit was decreed by holding that the school belonged to the denomination and thus, the 5th respondent school is entitled for protection under Article 26 of the Constitution of India. The second appeal preferred and the same was dismissed by the Principal Seat of this Court, vide order, dated 25.01.1999 in S.A.No.883 of 1999. Thus, the 5th respondent institution is a minority institution within the meaning of Article 30 (1) of the Constitution of India.



W.P(MD)No.23027 of 2015

WEB COPY

3. The petitioner was qualified with B.A. M.P.Ed and M.Phil.

Initially, the petitioner was appointed as physical education teacher and the same was duly approved by the educational authorities. Thereafter, one Mr.B.Jayarajan was appointed as the correspondent of the school from 10.02.2011 to 24.01.2012 and the same was also approved by the 4th respondent, vide his proceedings, dated 10.02.2011. However, the said order was withheld due to the interim order granted by this Court and upon disposal of the writ appeals, the order, dated 10.02.2011 was confirmed by the 4th respondent, vide his proceedings, dated 09.05.2011, which was not challenged by any party. Therefore, the order dated 09.05.2011 of the 4th respondent approving Mr.B.Jayarajan attained finality.

4. The said Mr.B.Jayarajan being the approved correspondent of the 5th respondent school, promoted the petitioner as a Physical Education Director on 17.02.2011 in the vacancy caused due to the retirement of the erstwhile incumbent. Thereafter, the petitioner was working in the sanctioned vacancy.



W.P(MD)No.23027 of 2015

WEB COPY

5. There was dispute as to the correspondent-ship of the school, the same resulted in filing of the writ petition in W.P(MD)No.13037 of 2011 etc., batch and this Court by an order, dated 19.03.2013 dismissed these writ petitions and directed the Government to appoint a Special Officer in supersession of the Committee by virtue of the power conferred under Section 34-A of the Tamil Nadu Societies Registration Act and the parties were relegated to approach the competent civil Court to decide the lis.

5. Aggrieved over the same, writ appeal was preferred and the same was dismissed. The said B.Jayarajan filed a Special Leave Petitions in S.L.P(Civil).Nos.18097 and 18099 of 2013 before the Hon'ble Supreme Court. The Hon'ble Supreme Court granted an interim stay and the said Special Leave Petitions are still pending.

6. The contention of the petitioner is that the petitioner did not receive monetary benefits due to the internal dispute in the management. The Petitioner was 56 years old at the time of filing the writ petition and as on date, he is 62 years and he did not receive any monetary benefits



W.P(MD)No.23027 of 2015

from the year 2011 onwards. Hence, the petitioner prays to allow the writ petition.

6. The learned Government Advocate for the respondents 1 to 4 had not filed any counter. However, he relied on the interim order granted by the Hon'ble Supreme Court in Special Leave Petitions. Since the Special Leave Petition is still pending before the Hon'ble Supreme Court, the Government did not appoint any Special Officer. Till date, the school is running under direct payment.

7. Heard M/s.J.Irfana Fathima, for M/s.Ajmal Associates the learned counsel for the petitioner and heard Mr.J.John Rajadurai, Government Advocate (Civil Side) for the respondents 1 to 4 and perused the materials on record.

8. There is no dispute in the management, when the petitioner was appointed as Physical Education Teacher on 14.08.1989. The dispute is only with regard to the promotion granted to the petitioner on 17.02.2011. When the management disputes were dealt by this Court in



W.P(MD)No.23027 of 2015

batch of writ petitions, this Court had directed the Government to appoint Special Officer and the parties were relegated to approach the competent civil Court. But the said order was challenged before the Hon'ble Supreme Court in Special Leave Petition in S.L.P(Civil).Nos.18097 and 18099 of 2013 and the same is still pending with an interim order. The Correspondent, namely, B.Jayarajan, who had granted promotion to the petitioner has filed Special Leave Petitions before the Hon'ble Supreme Court and obtained interim stay. Since, it is only a case of promotion and the petitioner is serving right from the year 2011 onwards and now, the petitioner had attained superannuation, this Court passes the following order:

- (i) Impugned orders, dated 14.08.213 and 29.01.2014 are set aside.
- (ii) The official respondents shall approve the promotion of the petitioner, which was granted on 17.02.2011 and disburse all the monetary benefits applicable to the petitioner to the promoted post.
- (iii) The official respondents shall grant the increments and other monetary benefits that are applicable to the petitioner.
- (iv) The official respondents shall grant all terminal benefits and submit the proposal of pension papers.

9. With the above direction, the writ petition stands allowed. The said exercise shall be carried out by the respondents within a period of 8



W.P(MD)No.23027 of 2015

weeks from the date of receipt of copy of this order. No costs.

Consequently, connected miscellaneous petition is closed.

31.10.2022

sn

Index : Yes/No

Internet : Yes/No

To

1. The Secretary, The State of Tamil Nadu,
School Education Department,
Secretariat,
Chennai-9.
2. The Director of School Education,
O/o. The Director of School Education Office,
College Road,
Chennai.
3. The Chief Educational Officer,
O/o. The District Educational Office,
Thallakulam,
Madurai,
Madurai District.
4. The District Educational Officer,
O/o. The District Educational Office,
Near Government Higher Secondary School,
Usilampatti, Madurai District.
5. The Correspondent,
Nadar Sarawathi Higher Secondary School,
Usilampatti,
Madurai District.



WEB COPY



W.P(MD)No.23027 of 2015

S.SRIMATHY, J.

sn

W.P(MD)No.23027 of 2015

31.10.2022