



W.P.(MD)No.23856 of 2016 Batch.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.23856 of 2016,
5165 & 7791 of 2017 and 12098 to 12101 of 2018
and
W.M.P(MD)Nos.17194, 17195 of 2016, 4163, 6057,
8509, 8905 of 2017

W.P(MD)No.23856 of 2016

Hindu Nadar Uravinmurai Committee
Higher Secondary School,
T.N.Pudukudi, through its Secretary,
R.Rathinavelpandian,
Puliangudi, Tirunelveli District.

... Petitioner

vs.

1. The Director of School Education,
DPI Compound, Chennai.
2. The Chief Educational Officer,
Tirunelveli District, Tirunelveli.
3. The District Educational Officer,
Tenkasi Educational District,
Tenkasi, Tirunelveli District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing respondents from re-deploying



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4 secondary grade teachers who were absorbed at the petitioners school vide proceedings of the 3rd respondent in Na.Ka.No.0321/A4/2016, an order, dated 07.10.2016 and 15.10.2016 and consequentially direct the 3rd respondent to ratify the above said proceedings by following the due process of law.

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

COMMON ORDER

Since the issue involved in these Writ Petitions are connected to each other and consequential to each other, hence with the consent of both parties, all the writ petitions are taken up together and disposed of by a common order.

2. The writ petitions in W.P.(MD)No.12098 to 12101 of 2018 are filed by the four teachers challenging the impugned order dated 13.07.2016, wherein the said teachers were dismissed from service with effect from 14.07.2016 and the teachers were deprived of all monetary and service benefits. The writ petition in W.P.(MD)No.23856 of 2016 is filed by Hindu Nadar Uravinmurai Committee Higher Secondary School praying for Writ of Mandamus, forbearing respondents from re-deploying 4 secondary grade teachers who were absorbed in their school



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vide order dated 07.10.2016 and 15.10.2016 and consequentially to ratify the above said order. The writ petitions in W.P.(MD)No.7791 of 2017 is filed by Mohideeniya High School challenging the order dated 01.05.2017, wherein through this order the school was closed. The W.P.(MD)No.5165 of 2017 is filed by the Mohideeniya High School challenging the impugned order dated 08.03.2017, wherein the official respondents have transferred the teachers to other schools, but the said teachers were suspended, then dismissed by the school.

3. The brief facts of the case are that the Mohideeniya High School was established in the year 1919 as Elementary School. The school was recognized as minority institution, based on the Judgment and Decree, dated 30.09.1978, passed by the learned District Munsif, Tenkasi, in O.S.No.275 of 1977.

4. The contention of the Mohideeniya High School, represented by its Manager is that, due to innocence of the petitioner management, four teachers working in the school have committed lots of irregularities and they have gone to the extent of fabricating his signature. On account of the improper attitude of the



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teachers, there was reduction in the students' strength. Hence, the school has placed the teachers under suspension on 15.02.2015. Aggrieved over the said suspension order, the teachers have filed a writ petition in W.P(MD)No.3921 of 2016. There was an interim order, but subsequently, it was withdrawn. Thereafter, a departmental proceeding was initiated against the teachers and vide order, dated 13.07.2016 the teachers were dismissed from the school. The teachers have contested the dismissal order. Subsequently, the Educational Authorities have transferred the said four teachers to Hindu Nadar Uravinmurai Committee Higher Secondary School along with the post.

5. The official respondents have filed counter and the contention of the official respondents is the students' strength have considerably reduced. At the time of consideration, the school strength was totally only 19 students. In the meanwhile, one K.Nagoor Kani, had filed a Public Interest Litigation in W.P(MD)No.8191 of 2016, for Mandamus to direct the respondents to take appropriate steps to ensure the safety and sanitation of the students studying in the school. The contention of the said K.Nagoor Kani, is that the school without complying the directions for maintaining the school has submitted a renewal



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letter of recognition for the academic year 2016-2017. The Hon'ble First Bench of this Court has directed the authorities to take necessary action in the matter and conclude it within a period of one month.

6. The allegations against the school is that there was no viable strength of pupils to run the school. The school is lacking in basic amenities like toilet, drinking water and the condition of the school building is quite bad. The school enjoyed only temporary recognition upto 31.05.2013 and thereafter the recognition to the school was not renewed. On inspection by the District Educational Officer the allegations found to be substantially correct, the recognition was granted only up to 31.05.2013 and the school was lacking of basic drinking water and the conditions of the school. Moreover, the school also remains closed periodically. Based on these findings, the Hon'ble Division Bench of this Court directed the official respondents to take necessary action. Based on the order of this Court, the respondents have initiated action. The respondents have issued two notices, dated 31.10.2016 & 24.11.2016. In the meanwhile. the said Nagoor Kani has filed a contempt petition in Cont.P.(MD)No.214 of 2012. Thereafter, the impugned order came to be passed, where, the petitioner school



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was ordered to be closed. The school was closed from 01.05.2017, onwards. Challenging the order, W.P(MD)No.7791 of 2017 was filed.

7. The official respondents has refuted the allegations submitted by Mohideeniya High School. The Hindu Nadar Higher Secondary School had filed counter stating that they have students' strength and hence had prayed to allow the teachers to continue in their school. The four teachers who were dismissed had filed writ petitions to quash the dismissal order and to regularize the suspension period and to grant all attendant benefits. All the contesting parties have raised various issues. For the sake of brevity this Court is taking up the issues which are necessary for deciding the issues alone.

8. Heard Mr. Mr.S.Chellapandian, the Learned Counsel appearing for the petitioner in W.P(MD)No.23856 of 2016, Mr.D.Sadiq Raja, the Learned Additional Government Pleader appearing for the officials respondents and Mr. Mohamed Suhail for M/s.Ajmal Associates, the Learned Counsel appearing for the writ petitioner in W.P(MD)No.7791 of 2017 and perused the records.



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9. The learned counsel appearing for the Mohideeniya High School submitted that the impugned order of closing the school was passed without issuing any notice to the School. The said statement was refuted by the official respondents stating that the District Educational Officer, Tenkasi, has issued two notices, dated 31.10.2016 & 24.11.2016. Infact in the impugned order, it is categorically stated that even after receipt of notices the correspondent of the Mohideeniya High School, has not attended the enquiry and has not submitted any proposal to renew the recognition granted to the school. After recording this fact, the impugned order came to be passed. A feeble attempt was made by the school to convince this Court that because of the problem created by the teachers, the school was busy attending to the problems created by the teachers, the school could not fulfill the statutory requirements, thereby the students' strength was reduced. This Court is not inclined to accept such a plea, since the school was closed only based on non-availability of basic amenities and the reason stated for not providing basic amenities cannot be accepted. Therefore, this Court is of the considered opinion that the contention of the petitioner that the notice was not issued and other reasons as stated supra cannot be entertained.



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10. The learned counsel appearing for the Mohideeniya High School has submitted that the District Educational Officer has deployed the school teachers and he has no power to deploy the teachers. This Court is not entertaining such plea. Admittedly, there was a dispute between the teachers and the Mohideeniya High School. The Mohideeniya school had initiated disciplinary proceedings against the said teacher and dismissed from service. The official respondents had held said dismissal is not sustainable in law. If the said teachers were re-transferred to Mohideeniya school, then the school and the teachers may not have conducive work place. Moreover, the Hindu Nadar Higher Secondary School is a needy school, the official respondents had transferred the teachers along with the post to the subsequent school. Therefore, the transferred teachers shall continue in the Hindu Nadar Higher Secondary School and with these directions, the transfer order is confirmed.

11. The next plea is that the school is aggrieved by the transfer of teachers **along with the post**, since the school has lost the post, the school is challenging the transfer order. When dispute arose between the school and the teachers, the official respondents had passed an order transferring the teachers



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along with post to Hindu Nadar Uravinmurai Committee Higher Secondary School. Since the situation then prevailing demanded to take such decision by the official respondents, therefore this Court is of the considered opinion that the decision to transfer the teachers along with the post cannot be interfered with. However, the school shall submit an application to the Director to revert the post to the school. Based on the students' strength and need of the school, the Director shall consider the case of the school in accordance to the prevailing rules and regulations. The Director may also consider to grant atleast one or two post from the already reverted sanctioned post, provided if the Director has power under the Rules to do so. The Director shall also consider to deploy the teachers from the surplus list of teachers to the needy school.

12. The learned counsel appearing for the Mohideeniya High School has submitted that, subsequently, the school has improved its infrastructure and has obtained necessary certificates from all the statutory authorities. In such circumstances, liberty is granted to the school to approach the official respondents to renew the recognition and for any other benefits that the school was possessing earlier. However, it is made clear that such renewal and recognition is applicable



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for the future only. The official respondents shall consider the same in accordance to law and pass order within a period of 12 weeks from the date of receipt of the copy of the order.

13. Since the teachers are deployed to some other school, this Court quashing the dismissal order. The teachers are entitled for service and monetary benefits.

14. Accordingly, the writ petitions in ***W.P(MD)Nos.23856 of 2016 and 5165 of 2017, W.P(MD)Nos.7791 of 2017 and 12098 to 12101 of 2018*** are disposed of in above terms. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

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Common Order made in
W.P.(MD)Nos.23856 of 2016,
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