



W.A.No.1813 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.1813 of 2023
and
C.M.P.No.15912 of 2023

SRI RAMAKRISHNA BHEL PRIMARY SCHOOL,
represented by its Secretary,
BHEL Township Ranipet, Ranipet District.

.. Appellant

Vs.

1.K.AMBIKA,
W/o.Bhaskar, No.12, N.V.N. Street,
Winterpet, Arakkonam-631 001, Ranipet District.

2.The Secretary to Government,
Department of Elementary Education,
Fort St.George, Chennai 600 009.

3.The Director of Elementary Education,
College Road, Chennai 600 009.

4.The Chief Education Officer,
Ranipet, Ranipet District.



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5.The District Elementary Education Officer,
Ranipet, Ranipet District.

6.The Block Education Officer-1,
Walaja West, Walaja, Ranipet District.

7.THAMARAICHELVI,
Head mistress, Sri Ramakrishna
BHEL Primary School, BHEL Township,
Ranipet, Ranipet District.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the
order dated 31.03.2023 passed in W.P.No.10086 of 2023 on the file of this
Court.

For Appellant : Mr.R.D.Ashok Kumar

For R1 : Mr.Secular S. Arunkumar

For RR 2 to 5 : Mrs.Mythreye Chandru
Special Government Pleader

JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

This writ appeal has been filed by the appellant herein, challenging
the order passed by the learned Judge in W.P.No.10086 of 2023 on
31.03.2023.



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According to the appellant, which is the sixth respondent in the aforesaid writ petition, they are the recognised non-minority institution and receiving staff grant from the Government. The first respondent / writ petitioner was appointed as a Secondary Grade Teacher on 16.11.2000 with two years of probation and her service was regularized with effect from 16.11.2000, whereas, the seventh respondent joined as a Secondary Grade Teacher on 21.08.1995 and was later on, deployed to the appellant / school as a Secondary Grade Teacher on 30.09.2002, and thus, on the date of joining of the seventh respondent, the first respondent was on probation and she completed the probation on 16.11.2002. It is the further case of the appellant / school that when the vacancy arose for the post of headmaster on 01.06.2008, the appellant / school management after following all procedures, promoted the seventh respondent as Headmistress on 10.03.2010, which was duly approved by the District Elementary Education Officer *vide* proceedings dated 06.04.2010. Aggrieved by the same, the first respondent preferred appeal before the Joint Director of Elementary Education and the same was rejected on 30.09.2010. Thereafter, by order



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dated 27.02.2019, the claim of the first respondent seeking promotion was rejected by the Joint Director of Elementary School. While so, the seventh respondent tendered VRS citing health and family reasons, but the same is yet to be approved by the Educational authorities. In such circumstances, the first respondent preferred W.P.No.10086 of 2023, which by the order impugned herein, was allowed by the learned Judge, after having observed that when the seniority list itself is wrong, the first respondent has got right to be promoted as Headmaster. While so, the District Elementary Education Officer, Ranipet, was directed to consider the claim of the first respondent seeking promotion to the post of Headmaster and other claims which she is entitled to, within a period of eight weeks. Aggrieved by the same, the appellant is before this Court with the present appeal.

3. The learned counsel appearing for the appellant school submitted that the order impugned herein is arbitrary, illegal and in violation of the principles of natural justice, as the writ petition was allowed at the admission stage itself without ordering any notice the respondents, more particularly, to the appellant school herein, in which, the first respondent is



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working and therefore, on this ground alone, the same is liable to be quashed. In support of his submission, the learned counsel referred to the Division Bench judgment of this Court in ***the Director of Handlooms and Textiles v. K.Venkatesan and Others [1988 (1) L.W. 605]***, wherein, it was held that the writ petition filed under Article 226 of the Constitution of India could not be straight away allowed under any circumstances without ordering any notice to the affected parties or without hearing their Advocate. He also referred to another Division Bench judgment of this Court in ***the President / Executive Officer, Vanagaram First Grade Panchayat v. The District Collector, Thiruvallur District***, decided on ***23.02.2022 in W.A.No.77 of 2022***, wherein, it has been stated that the order passed without giving opportunity of hearing to the parties concerned requires to be set aside. Stating so, the learned counsel prayed for allowing this writ appeal by quashing the impugned order.

4. Mr.Secular S.Arunkumar, learned counsel appearing for the first respondent refuted the above submissions made by the learned counsel for the appellant and submitted that as on 31.05.2008, the first respondent



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was the senior most teacher in the appellant school and was holding the required educational qualifications, such as, B.Sc., B.Ed degrees, seniority with 8 years of service, to be entitled for appointment to the post of Headmaster in the appellant school. However, she was not appointed as Headmaster and in order to avoid giving posting to her, the school management unilaterally revised the seniority list, in which, the first respondent's name was found at sl.no.16. Finally, on 06.04.2010, the seventh respondent was appointed as the headmaster who was junior to the first respondent, as she joined the school on deployment on 30.09.2002, vide G.O.Ms.No.525 dated 29.12.1997, whereas the first respondent joined the school on 16.11.2000 as a regular teacher. Further, the learned counsel drew the attention of this court to the counter affidavit filed by the first respondent, wherein, it has been *inter alia* stated as follows:

“56. I deny the averments made by the appellant school in page 4 at para 6 as false. It has falsely stated that my request for promotion was rejected by Joint Director of Elementary Education vide proceedings dated12.2011 after conducting personal enquiry on 24.11.2011. In fact the personal enquiry was conducted by the Joint Director of Elementary Education Mr.Ramarajan on 27.04.2011 in the office of J.D.E.E. Chennai. During enquiry the JDEE enquired and questioned the appellant school as to how the school seniority list properly followed from 2010 could be altered? He further questioned the appellant school as to whether there is any G.O. or proceedings to change the school seniority list? Further the JDEE stated that so far as



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his knowledge goes there is no such thing. He asked the appellant school to produce a copy if really such a one is available.

57. *Thus, it is clear that the appellant school has been altering and preparing the school seniority list illegally according to its own desire and convenience. However, thereafter the new JDEE rejected my claim for the post of the Headmaster without into all the above said details and without application of mind."*

Thus, according to the learned counsel, the order of the learned Judge directing the respondent authorities to consider the claim of the first respondent seeking promotion, is perfectly right and the same need not be interfered with, by this court.

5. Heard the learned counsel on both sides and perused the materials available on record.

6. It is evident from the order impugned herein that the learned Judge allowed the writ petition filed by the first respondent, at the admission stage itself, without even ordering notice to the contesting respondents, more particularly, the appellant herein. It is also seen from the pleadings put forth by the parties that with regard to promotional aspects, a serious dispute arose between the appellant and the first respondent herein; and that, the proposal of the seventh respondent tendering VRS citing health



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reason, is also pending before the Educational authorities for approval. In the given factual matrix, the grounds raised by the parties have to be agitated before the learned Judge for determination of the issue involved herein.

7. When this court expressed its view and made a suggestion to remit the matter to the writ court, the learned counsel for the parties agreed for the same. Accordingly, the order impugned herein is set aside and the matter is remitted to the writ court to look into all the grounds raised by both the parties, and thereafter, render a finding, on merits and in accordance with law, as expeditiously as possible.

8. This writ appeal stands disposed of, in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
17.08.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

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To
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