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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **23.06.2023**

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No. 34379 of 2014

And

M.P.No. 1 of 2014

And

M.P.Nos.1 & 2 of 2015

And

W.P.No. 14064 of 2017

And

W.P.Nos. 3432 & 4158 of 2016

And

W.M.P.Nos. 2801, 3481 of 2016

And

W.M.P.No. 15286 of 2017

W.P.No. 14064 of 2017

D.Evelyn Anita

... Petitioner

..Vs..

1. The Correspondent
V.R.V.Girls Higher Secondary School
Ranipet,
Vellore District.

2. The District Education Officer
Vellore,
Vellore District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records relating to the impugned proceedings of the first respondent dated 12.05.2017 and quash the same.



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For Petitioner :: Mr. V.Selvaraj
for Mr.D.Jayasingh

For 1st Respondent :: Mr. S.N.Ravichandran

For 2nd Respondent :: Mr.V.M.Ravichandran
Special Government Pleader

W.P.No. 3432 of 2016

D.Evelyn Anita

... Petitioner

..Vs..

1. The Director of School Education
(Higher Secondary)
College Road,
Nungambakkam,
Chennai – 600 006.
 2. The Joint Director of School Education
(Higher Secondary)
College Road,
Nungambakkam,
Chennai 600 006.
 3. The District Education Officer
Vellore,
Vellore District
 4. The Correspondent
V.R.V.Girls Higher Secondary School
Ranipet,
Vellore District.
- ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records relating to the impugned proceedings of the fourth respondent dated 08.01.2016 and quash the same.



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For Petitioner

:: Mr. V.Selvaraj
for Mr.D.Jayasingh

For RR 1 to 3

:: Mr.V.M.Ravichandran
Special Government Pleader

For 4th Respondent

:: Mr. S.N.Ravichandran

W.P.No. 4158 of 2016

D.Evelyn Anita

... Petitioner

..Vs..

1. The Director of School Education
(Higher Secondary)
College Road,
Nungambakkam,
Chennai – 600 006.
2. The Joint Director of School Education
(Higher Secondary)
College Road,
Nungambakkam,
Chennai 600 006.
3. The District Education Officer
Vellore,
Vellore District
4. The Correspondent
V.R.V.Girls Higher Secondary School
Ranipet,
Vellore District.
5. S.Suguna ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records relating to the impugned proceedings of the third respondent in Mu.Mu.No. 5337 /A3/2014 dated 12.11.2014 and quash the same.



For Petitioner :: Mr. V.Selvaraj
for Mr.D.Jayasingh

For RR 1 to 3 :: Mr.V.M.Ravichandran
Special Government Pleader

For 4th Respondent :: Mr. S.N.Ravichandran

For 5th Respondent :: Mr.Alwyn Prabakar

W.P.No. 34379 of 2014

D.Evelyn Anita

... Petitioner

..Vs..

1. The Director of School Education
(Higher Secondary)
College Road,
Nungambakkam,
Chennai – 600 006.
2. The Joint Director of School Education
(Higher Secondary)
College Road,
Nungambakkam,
Chennai 600 006.
3. The Chief Educational Officer
Vellore, Vellore District.
4. The District Educational Officer
Vellore,
Vellore District
5. The Correspondent
V.R.V.Girls Higher Secondary School
Ranipet,
Vellore District.



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6. The Convener
The Board for Higher Education
Church of South India
Diocese of Vellore represented
by its Bishop cum Manager
Vellore.

7. Ms.Suguna ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified calling for the records relating to the proceedings dated 13.11.2014 made in Na.Ka.No. 3913/A3/2014 of the fourth respondent and quash the same and consequently regularise the service of the petitioner as P.G.Assistant in English in V.R.V.Girls Higher Secondary School, Ranipet, from 07.09.2012.

For Petitioner	:: Mr. V.Selvaraj for Mr.D.Jayasingh
For RR 1 to 4	:: Mr.V.M.Ravichandran Special Government Pleader
For RR 5 & 6	:: Mr. S.N.Ravichandran
For 7 th Respondent	:: Mr.Alwyn Prabakar

COMMON ORDER

The petitioner was appointed as a Secondary Grade Teacher in V.R.V. Girls Higher Secondary School, Ranipet, Vellore District, on 01.07.1993. Her qualifications are B.A (English), M.A. (English) and B.Ed., Degree. The Board of Higher Education of CSI Diocese of



Vellore, in and by proceedings dated 06.09.2012 promoted the petitioner to the post of P.G. Assistant (English). She immediately joined service on 07.09.2012. The proposals of her promotion were submitted to District Educational Officer, Vellore.

2. The District Educational Officer, Vellore, came up with an objection that as per Rule 15(4) of the Tamil Nadu Private Schools Regulation and Rules made therein one Suguna was better qualified than the writ petitioner and the former ought to be appointed. Though he did not say in specific words, it is clear from his proceedings and actions that he had in fact supported Suguna consistently through out the proceedings.

3. On 26.09.2013, the District Educational Officer sent a communication to the School stating that Suguna, who had done B.A [History], M.A. [English] and B.Ed., was more qualified to occupy the post of P.G. Assistant than the writ petitioner.

4. The Management at that point of time, stood by its order and filed an Appeal on 10.10.2013 against the order of the District Educational Officer to the Director of School Education, Chennai.



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5. The Joint Director of School Education, by his proceedings dated 10.04.2014, opined that Suguna as well as the writ petitioner were qualified for promotion to the post of P.G. Assistant and since Suguna was about to retire from service, the Institution / School must reconsider the order dated 06.09.2012. Even at that point of time, the School was supporting the Writ Petitioner and addressed a communication on 07.05.2014 stating that the writ petitioner was qualified to be appointed to the post of P.G. Assistant and that it may be approved.

6. When the matter stood thus, one party after another approached this Court and finally, it came to head for W.P.No. 21772 of 2014. By an order dated 28.10.2014, this Court was of the view that the view taken by the District Educational Officer as Suguna was more qualified than the writ petitioner is only a *prima facie* view, as the findings had been rendered without hearing the writ petitioner or Suguna and therefore, directed the District Educational Officer to reconsider the entire position after giving notice to both parties.

7. I am extracting the relevant portion of the order as follows:-



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***“10.** The facts as narrated above are not in dispute. The question as to whether the sixth respondent is qualified to the post of P.G. Assistant or not will have to be decided by the third respondent while approving the promotion. The finding of the third respondent dated 14.07.2013 as confirmed by the order 10.04.2014 can at best be prima facie in nature. These findings has been rendered without hearing the petitioner. The further question as to whether the petitioner is entitled to the post of P.G. Assistant as against the sixth respondent is also a fact which will have to be considered by the third respondent. In so far as the fourth respondent is concerned, he took a stand in favour of the petitioner only in pursuant to the order of the third respondent, as confirmed by the Joint Director, a different stand has been taken.*

***11.** This Court is of the view that it would be unnecessary to decide the qualification of the sixth respondent as against the entitlement of the petitioner. In such view of the matter, a direction is issued to the third respondent to consider the question of approval of promotion of the sixth respondent as against that of the petitioner. The fourth respondent is directed to*



send the entire records pertaining to the petitioner as well the sixth respondent to the third respondent, within a period of four weeks from the date of receipt of a copy of this order. The third respondent is directed to issue notice to the petitioner as well to the sixth respondent and pass appropriate orders either confirming the promotion of the sixth respondent or the petitioner based upon the earlier recommendation made by the fourth respondent. The said exercise shall be completed within a period of four weeks from the date of receipt of the communication of the fourth respondent. However, it is made clear that this order will not stand in the way of impending superannuation of the sixth respondent and his entitlement to continue till the superannuation."

8. Despite a specific direction given by this Court, the District Educational Officer, Vellore, did not comply with the same. That is the cause for mischief for the litigation to explode in such a manner. Though he had been directed to hear the writ petitioner as well as Ms.Suguna and pass final orders, he had unilaterally passed an order confirming his order stating that Ms.Suguna was more qualified than the writ petitioner and therefore, had passed an order accordingly. This order is in flagrant violation of this Court.



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9. The previous view taken by the District Educational Officer was only a *prima facie* view, the learned Judge had specifically directed him to reconsider the entire issue afresh. It is surprising that he should affirm the same and that too without hearing anyone. Such an attempt to over reach the order of the Court would have to be put down.

10. Apart from expressing my anguish that the manner in which the District Educational Officer acted one unbecoming of an Officer, I am not writing further because Mr.V.M.Ravichandran, learned counsel would plead that the said Officer has retired in the year 2017. Strictions should have been passed against him. It is a case he deserved to be pulled up. I refrain myself by stating that the order dated 12.11.2014 passed by the first respondent in W.P.No. 14064 of 2017 is in violation of the principles of natural justice and in contravention of the order of this Court in W.P.No. 21772 of 2014. It deserves to be set aside and the same is accordingly set aside. The matter is remitted to the authorities to take a fresh call on the matter.

11. At the time of reconsideration, they shall necessarily refer to the fact that Suguna had challenged the promotion of the writ



petitioner in W.P.No. 11814 of 2014 and had withdrawn the same without any liberty. An order when put to challenge and withdrawn without liberty has its own consequence. The impugned order does not seem to have considered the same and therefore, in order to give an opportunity to the third respondent to rectify the situation, the order dated 12.11.2014 is quashed. The matter is remitted to the Chief Educational Officer, Ranipet District at Ranipet to decide the issue afresh. The matter is not sent to the District Educational Officer, Ranipet, because both the learned counsels would bring to my notice, the power vested with the District Educational Officer is the status vested with the Chief Educational Officer. This is as per G.O.Ms.No. 151 [School Education Department] dated 09.09.2022. Consequently, **W.P.No. 4158 of 2016 is allowed.** Costs.

12. In so far as **W.P.No. 3432 of 2016 is** concerned, this is a follow of the proceedings in W.P.No. 4158 of 2016, when a direction of the High Court had been given for the District Educational Officer to re-consider the matter, instead of complying with the order of the Court, the District Educational Officer confirmed his previous view. This view had been held to be prima facie by this Court. It looks like the authority wanted to assert his authority. The School authorities, who support the writ petitioner decided to 'accommodate' both the



District Educational Officer as well as Ms. Suguna by unseating the writ petition unceremoniously and wanted her to join the post of B.T. Assistant when she had been performing the duty of P.G. Assistant.

13. The petitioner, in the meanwhile, filed Writ Petition in W.P.No. 34379 of 2014 and obtained an order of *status quo*. Despite the order of status quo, the school authorities, by way of an internal communication from the Board of Higher Education of the C.S.I Diocese of Vellore, has decided to take a decision to dismiss the petitioner from service.

14. Mr.S.N.Ravichandran learned counsel would submit that they requested the petitioner to join the post of B.T. Assistant with an assurance that after Suguna retires, she will be appointed as P.G. Assistant. According to him, this entreaty fell on deaf ears. The petitioner, who had been working as P.G. Assistant refused to accept the same. Mr.S.N.Ravichandran adds being left with no other option, they appointed an enquiry officer, who submitted a report. He would say that they complied with the principles of natural justice, gave notice of the report to the petitioner, who had only stated that she had obtained an order of status quo from the High Court which the school did not want to comply. So, the school went ahead and dismissed her from service.



15. The petitioner challenged the charge memo issued to her in W.P.No. 3432 of 2016. I have to state that since subsequently, she had been visited with an order of dismissal, the question of quashing the charge memo does not arise and hence, **W.P.No. 3432 of 2016 is dismissed as infructuous.**

16. In so far as the W.P.No 14064 of 2017 is concerned, I have to point out that the petitioner had repeatedly requested for the uncommunicated resolution which affects her right, namely, the resolution of the Board of Higher Education dated 04.02.2017. The school authorities decided to treat the order, which affects the rights of the writ petitioner vitally, as a mere internal communication. They did not pay heed to her request seeking for a copy and reply to the same and proceeded further and dismissed her from service.

17. The petitioner can not be removed from service without being given documents sought for by her. It is admitted case from the counter that the petitioner is entitled to be served with a copy of the resolution dated 04.02.2017, but it was never given to the writ petitioner. A reference to the constitution of the C.S.I. Diocese of Vellore, in particular Chapter No.-VIII (b) makes it clear that the power to initiate as well as pass orders of termination is available only



with the Board and not with any other authority. When the initiation is said to have been given by the Board, the school should have communicated the order to the writ petitioner.

18. Apart from the fact that when there is an order of status quo granted by this Court, it is surprising that the School without heeding to the orders proceeded further. No authority can be permitted to over reach the orders of the Court.

19. The authorities failed to note that the petitioner having been promoted to P.G. Assistant, could not have called upon the petitioner to join as Secondary Grade Teacher, when this Court had stayed the order of promotion of Tmt. Suguna as P.G. Assistant in W.P.No. 21772 of 2014. That Writ Petition came to be disposed of as stated above, to give opportunity to both the teachers and pass orders.

20. When the status of the petitioner as well as Tmt. Suguna is in dispute and the matter is pending in Court, the act of the respondent in treating the petitioner as a Secondary grade teacher pre judges, the very issue. This is because, had the petitioner joined the service as secondary grade teacher, the respondent in particular



Tmt. Suguna would have taken a stand that the petitioner had acquiesced to the order. Therefore, the learned counsel for the petitioner would submit that the petitioner did not want to put herself in such a situation. This argument appeals to me because, had the petitioner joined the service as demanded by the respondent, she would have lost the foundation of the case that she had been litigating from 2014 onwards. Even on this ground, the impugned order deserves to be set aside.

21. Before drawing the curtains on the case, I have to note with regret that all these litigations would have been unnecessary, had the then district administrative officer, Vellore, has scrupulously complied with the order in W.P.No. 21772 of 2014 dated 28.10.2014.

22. When an order of status quo is passed by this Court, it is expected that the order is obeyed implicitly. Full faith and credit shall be granted to the orders of this Constitutional Court. Unfortunately, the school did not give the same in the present case. Since I find there was a violation of natural justice, without going deep into the matter and as, I have remanded W.P.No. 4158 of 2016. I am setting aside the order dated 12.05.2017. **W.P.No. 14064 of 2017 is allowed.**



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23. I pass the following directions:-

(i) W.P.No. 34379 of 2014 is allowed;

(ii) The Chief Educational Officer, Ranipet shall take up the proceedings in Mu.Mu.No. 5337/A3/2014, dated 12.11.2014 and pass fresh orders in accordance with law within a period of four weeks;

(iii) The school shall resubmit the proposals to the District Educational Officer, Vellore. He shall forward the same to the Chief Educational Officer, Ranipet, within a period of ten working days from today;

(iv) The writ petitioner D.Evelyn Anita and Ms.Suguna, shall if so advised, appear before the Chief Educational Officer, Ranipet, to substantiate their respective cases;

(v) After hearing the aforesaid teachers as well as the school, fresh orders will be passed as afore stated without seeking for extension of time;



(vi) I am not willing to grant further time because this Court even while passing an order in W.P.No. 21722 of 2014 had granted four weeks time to the then District Educational Officer and he had neither acted in letter nor in the spirit of the order;

(vii) After the receipt of the orders from the Chief Educational Officer, Ranipet, the school shall give copies of the records sought for by the petitioner and hold a fresh enquiry if they so desire to continue the proceedings against the petitioner and pass appropriate orders in accordance with law; and

(viii). Consequently, connected Civil Miscellaneous Petitions are closed.

23.06.2023

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order



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To

1. The Director of School Education
(Higher Secondary)
College Road,
Nungambakkam,
Chennai – 600 006.
2. The Joint Director of School Education
(Higher Secondary)
College Road,
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3. The Chief Educational Officer
Vellore, Vellore District.
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Vellore,
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5. The Correspondent
V.R.V.Girls Higher Secondary School
Ranipet,
Vellore District.
6. The Convener
The Board for Higher Education
Church of South India
Diocese of Vellore represented
by its Bishop cum Manager
Vellore.



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V.LAKSHMINARAYANAN, J.,

vsg

W.P.No. 34379 of 2014

And

M.P.No. 1 of 2014

And

M.P.Nos.1 & 2 of 2015

And

W.P.No. 14064 of 2017

And

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23.06.2023