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W.P.Nos.30456 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.30456 of 2023

and

W.M.P.Nos.30128 & 30129 of 2023

The President (Immanuel Sababathy)
Indian Evangelical Lutheran Church,
Ambur Synod,
Mission Compound, Ambur,
Thirupattur District.

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Krishnagiri District.

3.The District Educational Officer (Secondary),
Krishnagiri.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No.767/A3/2023 dated 08.09.2023 and quash the same and consequently direct the respondents to approve the appointment of P.Ramesh Kumar as correspondent of the Bargur Concordia Higher Secondary School.



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For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mrs.V.Yamuna Devi
Special Government Pleader

ORDER

After discharge of the Administrator of the Indian Evangelical Lutheran Church (IELC), the Executive Committee were elected. As per the decision of the Executive committee, one Mr.P.Ramesh Kumar, who is a retired Physical Education Teacher with 20 years of experience, was appointed as a Correspondent of Bargur Concordia Higher Secondary School under Synod of IELC on 14.02.2023, based on the order of this Court passed in W.P.No.11825 of 2023 dated 18.04.2023, wherein this Court had directed the official respondents to pass orders on the petitioner's complaints given against the appointment of P.Ramesh Kumar as Correspondent of the School.

2.The impugned order dated 08.09.2023 has been passed by placing reliance on the guidelines in the Annexure III of the 1959 IELC Constitution and bye-laws, stating that the Bargur Concordia Higher



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Secondary School, since situated beyond 50 kms distance from the synod office, the Headmaster alone should be the correspondent of this School and therefore, the petitioner was called upon to cancel the appointment of the correspondent. The said impugned order is challenged in this Writ Petition.

3.The learned Senior counsel appearing for the petitioner submitted that the Clause in the bye-laws relied upon by the respondent is only a guideline and hence, is not mandatory in nature. According to the learned senior counsel for the petitioner, the appointment of the correspondent was in compliance with the statutory provisions governing the private schools in the State and the appointee is also eligible as per the qualifications and conditions prescribed under the bye-laws and therefore, the reasons assigned by the respondents in the impugned order cannot be sustained.

4.Per contra, the learned Special Government Pleader placed reliance on the counter affidavit filed by the respondents and submitted that since there was a complaint with regard to the appointment of the



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correspondent in his School, they had passed the impugned order which is in conformity with the bye-laws. According to her, when the bye-laws provides that the Headmaster alone shall be the correspondent of the School which is 50 kms from the synod, appointing correspondent from outside the school is impermissible.

5.I have given careful consideration to the submissions made by the respective Counsels.

6.I am in agreement with the submissions of the learned senior counsel for the petitioner that the particular clause in the Annexure III of the bye-laws of IELC is only a guideline for a proper implementation of the other clauses of the bye-laws. The relevant guideline in the bye-laws that has been relied upon by the respondent in the impugned order reads as follows,

“If the particular school is situated beyond 50 Kilometers distance from the Synod Office, the Headmaster of the school shall be its Correspondent”



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7.It is not in dispute that P.Ramesh Kumar, who has been appointed as Correspondent of the school, possesses the requirements prescribed under the bye-laws. Two more requirements stipulated therein are that,

(i) The appointment of the Correspondent of an IELC School should be in compliance with the statutory provisions governing the private schools in the State. The impugned order does not state that the appointment of the correspondent is in violation of any of the provisions of the statutory.

(ii) The second terms and conditions with regard to eligibility is concerned, a lay person from the concerned Synod with sound experience in the field of education would be eligible for appointment as Correspondent. P.Ramesh Kumar who had been appointed as Correspondent is a retired physical education teacher with 20 years of experience and thus, is eligibility to be appointed as Correspondent which is also in conformity with such a requirement.

8.This aspect is also not been disputed in the impugned order. When the requirement that the School which is situated beyond 50 kms from the synod office is only a guideline for the implementation of the



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bye-laws, relying only on that clause and directing the petitioner to cancel the appointment of the correspondent is impermissible. Therefore, the impugned order itself is liable to be set aside.

9. Accordingly, the impugned order in Na.Ka.No.767/A3/2023 dated 08.09.2023 passed by the 2nd respondent is quashed and the Writ Petition stands allowed with a direction to the 2nd respondent herein to pass appropriate orders approving the appointment of the P.Ramesh Kumar as Correspondent of Bargur Concordia Higher Secondary School with effect from 14.02.2023. Such orders shall be passed within a period of two weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are closed. No costs.

13.12.2023

Index:Yes
Speaking order
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To

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M.S.RAMESH,J.

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