



W.P.(MD)No.2389 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.2389 of 2023
and
W.M.P(MD)Nos.2167 and 2171 of 2023

The Correspondent,
St. Bishop's College Higher Secondary School,
Near Chatram Bus Stand,
Trichy District – 620 002.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.
- 2.The Director of School Education,
College Road, Chennai – 600 009.
- 3.The Chief Educational Officer,
Trichy, Trichy District.
- 4.The District Educational Officer,
Trichy, Trichy District.



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5.The Secretary,
E.R. Higher Secondary School,
Tiruchirapalli.

6.R.Thiayarajan,
Physical Education Teacher,
E.R.Higher Secondary School,
Tiruchirapalli.

.... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned proceedings of the third respondent CEO in Na.Ka.No.7300/A4/Aa4/2022 dated 25.01.2023, quash the same as illegal and void.

For Petitioner : Mr.K.Ragatheesh Kumar for
M/s.Isaac Chambers

For R1 to R-4 : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned proceedings of the third respondent CEO in Na.Ka.No.7300/A4/Aa4/2022, dated 25.01.2023, as illegal and void.



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2. The case of the petitioner is that the petitioner school is an aided Minority Educational Institution, in which, one post of Physical Education Teacher fell vacant on 01.06.2019 due to the retirement of then incumbent Mr.S.Pandian on 31.05.2019. The petitioner school appointed a fully qualified person in the said post by name one Mr.S.Arun Dinesh Raj. After appointment, the petitioner school forwarded a proposal on 30.09.2019, seeking approval of appointment for the purpose of disbursement of grant-in-aid towards salary. The fourth respondent has returned the said proposal on 21.11.2019 directing the school to resubmit the proposal enclosing necessary certificates. The petitioner school again resubmitted the proposal by enclosing necessary certificates. Again the fourth respondent has returned the proposal vide order dated Nil.. 03.2021 stating that there are thirteen surplus Physical Education Posts in Trichy. Again the petitioner school resubmitted the proposal on 22.02.2022 stating that availability of surplus teachers in other school has no relevance for giving approval to the appointment made in the petitioner school. However, the fourth respondent once again returned the proposal reiterating the reasons stated earlier.



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Thereafter also, the petitioner school resubmitted the proposal on 30.01.2023 and the same is pending. While being so, the third respondent passed the impugned order, dated 25.01.2023, deputing the 6th respondent, who is serving in the fifth respondent school, in the petitioner school treating the above stated post as vacant post. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

4. The learned counsel appearing for the petitioner would submit that when a similar issue came up for consideration before a Division Bench of this Court in ***Secretary to Government and Others vs. Iruthaya Amali and another*** reported in ***2021 SCC OnLine Mad 1285***, an elaborate discussion was made, in Paragraph No.148, Clause(f) of the said decision, the procedure for deploying a Teacher was given and in violation of compendium schedule, the impugned order is passed, which is not sustainable one.



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5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. Admittedly, in the resultant vacancy in the post of Physical Education Teacher, the petitioner school appointed a person. The said appointment was not approved. Challenging the same, the petitioner school has filed this writ petition.

7. This Court has perused the compendium schedule in paragraph No.148(f) Clause-ix of the decision reported in **2021 SCC OnLine Mad 1285(referred to supra)**. A perusal of impugned order reveals that in compliance with the compendium schedule, the redeployment order is passed. Unless the appointment made by the petitioner school is approved, the petitioner cannot challenge the redeployment order passed. Further, the redeployment order is passed for the welfare of the student, which cannot be interfered with.



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8. In the result, these writ petition is dismissed. No Costs.

Consequently, connected miscellaneous petitions are closed.

07.02.2023

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To

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Represented by its
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M.DHANDAPANI,J.

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