



W.P.(MD)No.2409 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2409 of 2023

and

W.M.P.(MD).Nos.2194 and 2195 of 2023

Dr.S.Chandran

... Petitioner

Vs.

1.The Joint Director of School Education
(Higher Secondary),
DPI Campus,
College Road,
Chennai.

2.The Chief Educational Officer,
Tiruchirapalli.

3.The District Educational Officer (Secondary Education),
Trichy.

4.R.Susila Rengarajan

5.Thiru.R.Ragavan

6.Dr.V.Ramakrishnan (Chemistry)

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in Na.Ka.No. 3826/A3/2020, dated 03.01.2023 in so far as declaring the post of Head Master as vacant in the 4th respondent school and the consequential impugned proceedings in Na.Ka.No.3826/A3/2022, dated 05.01.2023 issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents 1 to 3 to permit the writ petitioner to continue to discharge the duty of Head Master in the 4th respondent School.

For Petitioner : Mr.G.Prabhu Rajadurai
for Mr.AL.Kannan
For R1 to R3 : Mr.S.Saji Bino
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings dated 03.01.2023 insofar as declaring the post of Head Master as vacant in the 4th respondent school and the consequential impugned proceedings dated 05.01.2023 issued by the 3rd respondent and to quash the same and consequently direct the respondents 1 to 3 to permit the writ



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petitioner to continue to discharge the duty of Head Master in the 4th respondent School.

2. The case of the petitioner is that he has been appointed as B.T.Assistant in the fourth respondent School in the year 1992. Thereafter, he was promoted as P.G.Assistant in the year 2000 and the same was approved by the Education Department. In the circumstances, on account of superannuation of Mr.C.Manohar, the post of Head Master fell vacant in the fourth respondent School on 31.05.2019. Hence, the petitioner was appointed as Head Master (in charge) with effect from 01.06.2019. The sixth respondent has filed a writ petition in W.P.(MD).No.13150 of 2019 before this Court, seeking direction to the respondents 1 to 3 to fill up the vacancy in the post of Head Master by promoting the petitioner, by following the procedure contemplated under the Tamil Nadu Recognised Private Schools Regulation Act and Rules. The said writ petition was disposed of on 19.06.2019, directing to fill up the post of Head Master permanently by following Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 within a period of three months. Pursuant to the



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same, the second respondent vide proceedings dated 18.09.2019, directed the fourth respondent School to fill up the post of Head Master by referring to the order passed by this Court. Accordingly, the fourth respondent School issued a Circular, on 09.10.2019, calling all the eligible teachers working in the fourth respondent School to participate in the selection process scheduled to be held on 13.10.2019. The sixth respondent has not participated in the selection process held on 13.10.2019. On the other hand, nine Post Graduate Assistants were participated in the selection process and based on merit and ability, the petitioner was selected for the post of Head Master. The fourth respondent School has also accepted the decision of the school selection committee and promoted him as Head Master on 14.10.2019 and sent necessary proposal to the District Educational Officer seeking approval. The District Educational Officer has forwarded the same to the Chief Educational Officer and the same is pending.

3. Challenging the said promotion, the sixth respondent has filed an appeal before the Joint Director of School Education, the first respondent herein. The Joint Director of School Education, without issuing any notice



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or opportunity to the petitioner, has cancelled the entire selection process and directed the fourth respondent School to redo the exercise, vide proceedings dated 04.10.2020. Challenging the same, the fourth respondent School has filed a writ petition in W.P.(MD.No.16051 of 2020 and the petitioner has filed a writ petition in W.P.(MD)No.18393 of 2020 before this Court. Both the writ petitions were clubbed together and by way of common order dated 23.11.2021, directed the fourth respondent School to conduct fresh selection by issuing notice to all the participant. Aggrieved over the same, the fourth respondent School Management preferred W.A.(MD).No. 628 of 2022 and the petitioner has preferred W.A.(MD).No.768 of 2022 and the same are pending without any interim order. In the mean while, the third respondent vide proceedings dated 03.01.2023, brought the fourth respondent School under direct payment. Subsequently, vide impugned proceedings dated 05.01.2023, the third respondent has nominated the sixth respondent to discharge the day to day functions of the fourth respondent School. Challenging the same, the present writ petition has been filed.



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4. The learned counsel appearing for the petitioner would submit that already the petitioner was appointed as Head Master (In charge) in the fourth respondent School. Subsequently, the fourth respondent School conducted selection process in which the petitioner was selected and continuously discharging his duty as Head Master. Even though the writ petitions filed by the petitioner as well as the fourth respondent School were dismissed, the writ appeals filed by the School as well as the petitioner are pending before the Division Bench of this Court. However, without considering the same, the third respondent appointed the sixth respondent as Head Master (In charge), which is not sustainable one. Hence, he prayed for allowing this writ petition.

5. Per contra, the learned Special Government Pleader appearing for the respondents 1 to 3 would submit that already the selection process of the fourth respondent School was rejected by the first respondent, on the appeal filed by the sixth respondent and the same was confirmed by the learned single Judge of this Court. Thereafter, the petitioner as well as the



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fourth respondent School had filed the writ appeals and the same are pending before the Division Bench of this Court, without any interim order. In the absence of interim order, the third respondent appointed the sixth respondent as Head Master (In charge) for the welfare of the School children. He would further submit that without adjudicating and without pursuing the remedy available before the Division Bench, filing the present writ petition challenging the appointment of the sixth respondent as Head Master (In charge) is not sustainable one and the said order is in terms of the order of learned single Judge of this Court. Hence, the writ petition is liable to be dismissed.

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

7. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Head Master (In charge) in the fourth respondent School through selection process and the said selection process was set aside by the first respondent vide proceedings dated 04.10.2020



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and the same was challenged before this Court by the petitioner as well as the fourth respondent School Management. These writ petitions were dismissed. Subsequently, the petitioner as well as the School Management filed the writ appeals and the same are pending before the Division Bench of this Court, without any interim order. In the absence of interim order, the third respondent have right to appoint the sixth respondent as Head Master (In charge) for the welfare of the School and this Court do not find any error in the impugned orders passed by the third respondent. Hence, this Writ Petition is dismissed. However, liberty is granted to the petitioner to pursue his remedy before the Division Bench of this Court where the writ appeals are pending. No costs. Consequently, the connected Miscellaneous Petitions are closed.

07.02.2023

NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

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To

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(Higher Secondary),
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M.DHANDAPANI,J.

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