



W.P.(MD)No.4633 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4633 of 2020

and

W.M.P(MD) No.3992 of 2020

A.Karuppasamy (deceased)

R.Ramanathan *
Secretary,
Nadar Chathria Middle School,
Arungulam,
Vilathikulam Taluk,
Tuticorin District.

: Petitioner

* substituted vide order dated 11.01.2023,
made in W.M.P(MD) No.11714 of 2021

Vs.

1.The District Educational Officer
Kovilpatti,
Thoothukudi District.

2.Block Educational Officer - I,
Vilathikulam,
Tuticorin District.



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: Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings, dated 28.10.2019 in Na.Ka.No. 964/A2/2019 of the 2nd respondent and quash the same and consequently direct the respondents 1 and 2 to approve the appointment of 3rd respondent in the petitioners school as Middle School Teacher since 19.01.2019.

For Petitioner : Mr.P.Selvaraj

For Respondents 1 & 2 : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned order passed by the 2nd respondent in his proceedings, dated 28.10.2019 in Na.Ka.No.964/A2/2019 and consequently direct the respondents 1 and 2 to approve the appointment of third respondent in the petitioner's school as Middle School Teacher since 19.01.2019.



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2. The learned counsel for the petitioner submitted that the petitioner's school is an aided School, which was started in the year 1921. The age of the School is more than 100 years. The classes are from 1st to 8th standard. Under the petitioner's School Management, there is no other School except this School and there was a middle School Teacher vacancy arose 01.06.2015, in view of superannuation of one Middle School Teacher Mrs.Muthulakshmi, on 31.05.2015. Whileso, the first respondent proceedings, dated 26.10.2018, granted permission to the petitioner to appoint a Middle School Teacher by direct interview from SC Arunthathiyar Community candidates. Accordingly, the third respondent selected through Employment Exchange, by following the guidelines given in DEO proceedings, dated 26.10.2018. The petitioner School Management followed all the directions issued by the District Educational Officer and appointed the third respondent to the Middle School Teacher post, by convening the Executive Committee Meeting on 09.01.2019 and the same was communicated to the third respondent on 18.01.2019, about her appointment in the post of Middle School Teacher in Scheduled Caste Arunthathiyar Community (SCA). On 19.01.2019, the third respondent



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joined the petitioner School and submitted the joining report. When the petitioner's School sought for approval of the third respondent appointment, the second respondent informed the petitioner School that after appointment of surplus Teachers only, approval would be granted for the new appointees by referring to the instructions of the Director of Elementary School Education, dated 26.10.2018. Challenging the proceedings of the second respondent, dated 28.10.2019, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that it is true that the Director of Elementary School Education issued a letter, dated 26.10.2018, wherein, it is held that the Government shall not make any fresh appointment from today in private aided schools, till surplus teacher in other Schools coming under the same management are exhausted. However, the petitioner Management is a single Management and it is not a Corporate Management and the Teacher, students strength were fixed by the first respondent in the year 2018-2019, vide its order, dated 16.07.2019, wherein, it is held that there are Secondary Grade Teacher post is available. On 01.09.2019, as per the Teacher students strength ratio, the petitioner School



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is entitled to appoint in the cadre of Secondary Grade Teacher. However, contrary to the order, the second respondent passed the impugned order, dated 28.10.2019, which is not sustainable one. Accordingly, he prayed for allowing the writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents submitted that as per the staff strength for the academic year 2018-2019, one Secondary Grade Teacher post is available in the petitioner School. However, the second respondent without considering the first respondent's order, mechanically passed the impugned order which is not sustainable one. Hence, this Court may set aside the impugned order and remand back the matter for fresh consideration.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner's Management sought to be entitled to fill up one post of



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Secondary Grade Teacher, in view of the retirement of one Muthulakshmi on 31.05.2015. The said post was also sanctioned by the first respondent, vide its order, dated 26.10.2018, and grant permission to the petitioner, thereby, the petitioner School appointed the third respondent as Secondary Grade Teacher with effect from 19.01.2019 and the same was forwarded to the second respondent for approval. However, the second respondent mechanically rejected the petitioner's representation on the ground that there are surplus Teachers available in the School. However, the said decision is contrary to the order passed by the first respondent, dated 26.10.2018 and the Teacher strength ratio issued by the first respondent, dated 16.07.2019. Hence, the impugned order, dated 28.10.2019, passed by the second respondent is in non-application of mind and the same is liable to be interfered with.

7. Accordingly, this writ petition is allowed and impugned order is set aside. The second respondent is directed to grant approval of the petitioner- School in terms of first respondent order, dated 26.10.2018. Such exercise shall be completed within a period of four weeks from the



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date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

11.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

To

1.The District Educational Officer
Kovilpatti,
Thoothukudi District.

2.Block Educational Officer-I,
Vilathikulam,
Tuticorin District.



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M.DHANDAPANI, J.

RM

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