



W.P.(MD) No.5416 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.5416 of 2020
and WMP(MD) Nos.4711 and 4712 of 2020

Perunthalaivar Kamaraj
primary School
rep. By its Secretary
Meenakshipuram
Rajapalayam Taluk
Virudhunagar District.

... Petitioner

-VS-

- 1.The Director of School Education,
DPI Compound,
Nungambakkam College Road,
Chennai 600 006.
- 2.The District Elementary Education Officer,
Virudhunagar,
Office at Srivilliputhur,
Virudhunagar District.
- 3.Block Education Officer,
SS Higher Secondary School
Rajapalayam.
Virudhunagar District

... 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 relating to the impugned order passed by the 2nd respondent District



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Elementary Education Officer made in Mu.Mu.No.4904/A2/2017 dated 12.03.2018 and quash condition 1 and 2 in the same and direct the respondents to remove the name of the petitioner institution from the list of unaided institution.

For Petitioner : Mr.M.Joseph Thatheus Jerome
For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

The petitioner challenges the impugned order of the 2nd respondent dated 12.03.2018 and for a direction to the respondents to remove the name of the petitioner institution from the list of unaided institution.

2.The case of the petitioner in nutshell is as follows:

The petitioner is a non minority aided school started in the year 1989-1990 with retrospective recognition from 1989-1990 having 5 secondary grade teachers. It is their case that as per the proceedings of the 2nd respondent, permission was granted to upgrade the post of secondary grade teacher to that of Headmaster and to appoint a senior-most teacher from the allotted teachers. As per the permission, the 2nd senior-most teacher was appointed as Headmistress, since the senior-most



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teacher was due to retire and she was not willing to hold the post. As such proposal for upgradation of secondary grade teacher to headmistress and for granting approval and salary with regard to the appointment of the 2nd senior-most teacher as headmistress was sent to the 2nd respondent. The petitioner has also sent an application for approval of change in the constitution of the school committee. However, the change in constitution of the school committee was approved with a condition that no teacher should be appointed by the Secretary. In order to avoid contempt proceedings, the posts of teachers were sanctioned to the petitioner school and since the salary and other benefits were granted to the teachers of the petitioner school, the approval for appointment of secretary was approved and no teacher should be appointed and in case of any violation, the grant-in-aid will be cancelled. By stating these conditions, the approval was rejected. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that it would suffice if this Court issues a direction to the respondents to fill up the vacant posts as soon as vacancy arises in consultation with the school



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committee and if such a direction is issued, the petitioner would be satisfied.

4. The learned Additional Government Pleader would submit that as per the direction of this Court the teaching staff were appointed to the petitioner school and if any vacancy arises in the petitioner's school, the same will be filled up from the surplus teachers and if surplus teachers are not available, the official respondents will take a decision for appointment of the teachers with consultation of the school committee in terms of Section 18 of the Private Schools Regulations Act.

5. In view of the submission made by both sides, without interfering with the impugned order passed by the respondents, this Court is inclined to issue the following directions:

(i) As soon as vacancy arises in the petitioner school, the same shall be filled up with surplus teachers available in other school in consultation with the school committee in terms of Section 18 of the Private Schools Regulations Act;



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(ii) If there is no teacher available by way of surplus, then the respondent has to take a decision for appointment of the teachers in the petitioner's school in consultation with the school in terms of Section 18 of the said Act.

6. The Writ Petition is disposed of with the above directions. No costs. Consequently connected Miscellaneous Petitions are closed.

19.01.2023

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

RR

To

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M.DHANDAPANI, J.

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