



W.A.(MD)No.1067 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.1067 of 2020
and C.M.P. (MD) No.5848 of 2020

- 1.The District Elementary Educational Officer,
Officer of the District Elementary Educational Officer,
Thirunelveli, Thirunelveli District.
- 2.The Assistant Elementary Educational Officer,
Officer of the Assistant Elementary Educational Officer,
Kalakad – 623 703, Thirunelveli. ... Appellants/Respondents 1 & 2

Vs.

- 1.Rachel Jannet,
Secondary School Teacher,
R.C. Elementary School,
Nambithalaivanpattayam,
Kalakad Range, Thirunelveli District. ... 1st Respondent/Writ Petitioner
- 2.The Correspondent,
R.C. Elementary School,
Nambithalaivanpattayam,
Kalakad Range, Thirunelveli District.
- 3.The Manager,
R.C. School,
Tuticorin Diocese, Tuticorin. ... Respondents 2 & 3/Respondents 3 & 4



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PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 01.04.2019 made in W.P.(MD)No.12598 of 2017 on the file of this Court.

For Appellants : Mr.A.Kannan
Additional Government Pleader

For 1st Respondent : Mr.K.Sankar

For Respondents 2 & 3 : Mr.S.Savarimuthu
for M/s.Father Xavier Associates

JUDGMENT

(Judgment of the Court was delivered by ***R.SURESH KUMAR, J.***)

This Writ Appeal has been directed against the order of the Writ Court dated 01.04.2019, made in W.P.(MD) No.12598 of 2017.

2. The appointment of the first respondent at the second respondent school, since has not been approved, the teacher i.e., the first respondent approached this Court by filing a Writ Petition in W.P.(MD) No. 12598 of 2017, seeking for a Writ of Certiorarified Mandamus to quash the order of the respondent department dated 10.04.2017 and seeking a direction to approve the appointment of the teacher as a Secondary Grade Teacher in the third respondent school with effect from 15.03.2017 with all service benefits.



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3. The learned Judge, who heard the Writ Petition, allowed the same as he did not find any infirmity in making such appointment of the first respondent at the second and third respondents school.

4. While allowing the Writ Petition, the learned Judge had given a set of directions, including the direction to take an enumeration of the excess teacher available in various schools through out Tamil Nadu and accordingly, conduct a drive of redeployment also. That apart, the learned Judge allowed the said Writ Petition by quashing the said order refusing to give approval to the teacher and a consequential direction was given to the appellant department to approve the same.

5. This order was passed on 01.04.2019 and as against the same, since appeal has been filed and pending, so far, the approval has not been given.

6. With regard to the various directions issued by the learned Judge in the impugned judgment dated 01.04.2019, in fact, it is in favour of the appellant department as they have been consistently making the plea



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that, several aided private educational intitutions i.e., the schools that are functioning in the State of Tamil Nadu are having excess teachers and without allowing them to be deployed in various needy schools, again and again appointments are made and approvals are sought for.

7. Only in order to overcome this issue, even though a comprehensive direction has been given by a Division Bench of this Court earlier to make such exercise of identifying the surplus teachers for the purpose of redeployment, that exercise seems to have not been undertaken by the appellant department.

8. In the impugned order itself, the learned Judge has given similar directions, which read thus:-

16. Before parting with this case taking note of the fervent plea made by the learned Government Pleader that I am deem it fit to issue the following directions:

- i. The Director of School Education shall ascertain the number of surplus teachers in all Aided Schools all over the State and take steps to redeploy the teachers in places wherever there is a requirement.



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- ii. The Authorities undertake fixation of staff strength with the students strength as on 31st August 2019 as the basis. The staff fixation is completed by end of October 2019.
- iii. The respondents shall undertake the exercise of redeployment of the teachers who are rendered a surplus as per the staff fixation for the year 2019-2010 immediately after completion of the staff fixation and complete the same by the end of the academic year 2019 - 2010.

The report regarding staff fixation and redeployment shall be filed in this Court by first week of June 2020.”

9. Despite these directions also the appellant department has not come forward to do that exercise of identifying the surplus teachers for the purpose of redeployment.

10. Insofar as the first respondent teacher is concerned, if there is no other infirmity and otherwise she is eligible to be approved for the appointment, the direction issued by the learned Judge dated 01.04.2019 in the impugned order can very well be implemented. Therefore, absolutely, there has been no ground, which is available to the appellants, to urge



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before this Court to interfere with the said order / directions given by the learned Judge through the order dated 01.04.2019.

11. The said position also cannot be controverted by the learned Additional Government Pleader, even though he made submissions by relying upon the grounds (b) and (c).

12. We have gone through the said grounds, where, if at all any excess teachers are available in the Management, the same have to be identified and reported to the department, where the redeployment process can be undertaken.

13. Insofar this process is concerned, though a set of directions have already been given by a Division Bench of this Court, they have not accepted such directions, instead, the department preferred Special Leave Petition before the Hon'ble Supreme Court, where they claimed that S.L.P. is pending and citing the reason, the enumeration of the teachers which are excess on various private schools have not at all been taken and as a sequel no deployment could be made, therefore, if at all the deployment exercise



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could not be made the blame cannot be made on any individual teacher or the school concerned, but it should be made only against the appellant department as they have miserably failed to do their job.

14. Be that as it may, insofar as the directions given in the order impugned by the learned Judge, who directed the approval of the appointment of the first respondent teacher in the second and third respondents school, is concerned, we find no infirmity in giving such directions as the approach of the learned Judge in passing such an order to reach the conclusion in the impugned order does not warrant any interference, hence, this Writ Appeal fails and accordingly the same is dismissed. The needful as indicated in the said order to approve the appointment of the teacher concerned shall be undertaken by the appellant department within a period of 8 weeks from the date of receipt of a copy of this order. It is needless to mention that, even after such approval is given, still it is open to the appellant department to find out the number of teachers working in the school or the management concerned based on which, if ultimately the appellant department finds that there are excess teachers, it is open to redeploy them, including the teacher concerned, who is going to get



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the approval by virtue of this order to any needy school.

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15. With that liberty and exercise, this Writ Appeal is dismissed.

However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.K., J.) & (K.K.R.K, J.)
22.06.2023

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

To

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