



W.P.(MD)No.14702 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.14702 of 2020

and

W.M.P.(MD)Nos.12379 & 12382 of 2020

Elizabeth

... Petitioner

Vs.

1.The Joint Director of School Education,
Higher Secondary School,
DPI Compound,
College Road,
Chennai.

2.The District Educational Officer,
Trichy Educational District,
Trichy District.

3.Tamil Nadu Pengal Nala Sangam
Rep. by General Secretary,
Vinoba Nagar,
Airport Colony,
Trichy.



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4. Annai Higher Secondary School

Rep. by Secretary,
Vinoba Nagar,
Airport Colony,
Trichy.

... 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 issued by the 3rd respondent vide dated 09.09.2020 and quash the same as illegal and consequently direct the 3rd and 4th respondents to reinstate the petitioner into service.

For Petitioner : Mr.A.Balakrishnan

For Respondents : Mr.J.Ashok, - for R1 & R2
Additional Government Pleader
Ms.K.Sivatharsana - for R3
for Mr.M.P.Senthil
No Appearance - for R4

ORDER

This writ petition has been filed to quash the Impugned Order issued by the 3rd respondent, dated 09.09.2020 and consequently direct the respondents 3 and 4 to reinstate the petitioner into service.



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2. The learned counsel appearing for the petitioner submitted that the petitioner was appointed as a Secondary Grade Teacher on 02.06.2016 in the fourth respondent School as per the proceedings of the fourth respondent, dated 02.06.2016. The fourth respondent School is receiving aid from the Government to the High School level and Higher Secondary Section is being run by the third respondent Society on their own fund and the School is governed by the provisions of Tamil Nadu recognized Private School Act and Rules. The fourth respondent School is doing public duty by imparting education under the control of other official respondents. The petitioner's qualification is M.Com., B.Ed., and taking classes in the subject of Commerce and Accounts to the Higher Secondary students, for more than 5 years of service in the fourth respondent School without any adverse remarks. Originally, she received a salary of Rs.5,000/- and thereafter, she received Rs.7,100/-. In these circumstances, the Headmistress of the School gave some trouble to the petitioner without any reasonable cause and subsequently, not permitted to take online classes. Thereafter, the petitioner issued a legal notice and representations to the respondents 3 and 4, dated



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22.07.2020 and 24.07.2020 requesting salary and also permitting her to taken online classes. Surprisingly, on 22.07.2020, the third respondent issued a show cause notice stating that in the year 2019-2020 Board exam, 3 students have failed in their subject resulted the fourth respondent school not achieving 100% result and thereafter, the petitioner submitted her explanation on 24.07.2020 requesting to cancel the charge memo and permit the petitioner to take classes. However, without giving any opportunity, the third respondent relieved the petitioner from service. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner further submitted that admittedly, the third respondent Society is not a recognized Institution and aided Institution and the petitioner's post was also not approved by the Government. Even then, the third and fourth respondent School discharging public duty and they are amenable to jurisdiction of the Article 226 of the Constitution of India, since the said School is coming under the purview of the State. Accordingly, he prayed for allowing the writ petition.



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4. Ms.K.Sivatharsana, for Mr.M.P.Senthil, learned counsel appearing for the third respondent submitted that the fourth respondent School is run by the third respondent Society. The classes run by the third and fourth respondent is without any grant-in-aid from the Government and through self finance, the said classes were run by the private management and there is no service condition available either by way of form of a Statute and the Private School Regulation Act is not applicable to the third respondent Society and hence, the writ petition itself is not maintainable under Article 226 of Constitution of India. Accordingly, she prayed for dismissal of the writ petition.

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 employed in Private School Management and the classes run by the third and fourth respondent is not aided by the Government and further, the petitioner's appointment is not approved by the Government. Hence, the



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termination order need not require the approval of the official respondents.

When the Private School Regulation Act is not applicable in respect of third respondent Society, filing the present writ petition challenging the termination order, is not sustainable one. Hence, without expressing any opinion on the merits of the matter, this Court grants liberty to the petitioner to work out her remedy before the competent forum, in the manner known to law.

7. With the above observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

01.02.2023

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

RM



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M.DHANDAPANI,J.

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