



W.P(MD).No.23100 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD).No.23100 of 2018
and W.M.P(MD).No.20999 of 2018

The Secretary,
Mallankinar Nadargal M.S.P Senthilkumara
Nadar Higher Secondary School,
Mallanginaru-626 109,
Virudhunagar District.

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.
- 2.The Director of School Education,
College Road,
Chennai-6.
- 3.The Joint Director of School Education (Higher Secondary),
College Road,
Chennai-6.
- 4.The Chief Educational Officer,
Virudhunagar District, Virudhunagar.



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5.The District Educational Officer,
Virudhunagar District, Virudhunagar.

6.Madhavan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 5th respondent/District Educational Officer in A.Thi.Mu.No.5882/A2/18 dated --.11.2018, quash the same and further direct the 4th and 5th respondents to approve forthwith the promotion of H.David Sudhakaran as Headmaster in the petitioner School with effect from 26.10.2018 with all attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.S.Saji Bino
Special Government Pleader
for RR1 to 5
Mr.T.Aswin Rajasimman for R6



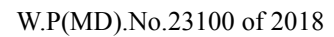
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ORDER

This Writ Petition has been filed to call for the records relating to the impugned proceedings issued by the fifth respondent in A.Thi.Mu.No.5882/A2/18 dated --.11.2018, quash the same and direct the respondents 4 and 5 to approve forthwith the promotion of one H.David Sudhakaran, as Headmaster in the petitioner School with effect from 26.10.2018 with all attendant benefits.

2. The case of the petitioner is that the petitioner School is a recognised aided private School. The post of Headmaster in the School fell vacant on 01.09.2018 on account of superannuation of one N.Ramasubbu on 31.08.2018. Hence, the petitioner School issued Circular dated 19.09.2018 to all the Teachers working in the School inviting application from the interested eligible candidates. Following the same, one P.Madhavan, who is working as P.G.Assistant (Maths) and R.Wilson Selvaraj, who is working as P.G.Assistant (History) and H.David Sudhakaran, who was working as P.G.Assistant (English), submitted their applications to the post of



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3. The learned counsel appearing for the petitioner School would submit that as per Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, the School Committee alone has empowered to grant promotion to the eligible candidates. The Selection Committee has conducted written test and oral test. The said David Sudhakaran has possessed 85% in the written examination and 68% in the oral test, whereas the sixth respondent possessed 34% in the written examination and 46.6% in the oral examination. Hence, the sixth respondent was not selected and the said David Sudhakar was selected as Headmaster. When that being so, the fifth respondent has no power to return the proposal submitted by the petitioner School and the fourth respondent has to consider as to whether the selection process has been conducted in accordance with law.

4. The learned counsel appearing for the sixth respondent would submit that admittedly, the sixth respondent has given all pass in Mathematics, whereas, the said David Sudhakaran has given only 98% pass rate in English. The Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, make it clear that the promotion has to be considered only



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based on merit and ability. The sixth respondent is the meritorious candidate than the said David Sudhakaran and has rendered 33 years of service, whereas the said David Sudhakaran has rendered only 8 years of service. Hence, he prays for passing appropriate orders.

5. Heard the learned counsel appearing for the petitioner School and the learned counsel appearing for the sixth respondent.

6. The facts in the present case are not in dispute. Admittedly, the sixth respondent and the said David Sudhakaran have participated in the selection process to the post of Headmaster, which arose in the petitioner School due to superannuation of one N.Ramasubbu. The sixth respondent has rendered 33 years of service, whereas, the said David Sudhakaran has rendered 8 years of service in the petitioner School. The sixth respondent was appointed in the post of P.G.Assistant in Mathematics on 25.01.1985, whereas, the said David Sudhakaran has entered into service in the petitioner School in the year 2009 as Graduate Teacher and his date of birth is 1974. The sixth respondent's date of birth is 1962. The fact remains that



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the sixth respondent has given all pass in Mathematics and the said David Sudhakaran has given 98% passing rate in English. The other qualification with regard to securing marks in written examination and oral test conducted by the School Committee is as per their discretion.

7. The promotion to the next higher post will be considered only based on merit and ability. If the merit and ability is approximately equal, then the seniority will be considered. In the present case, the qualification of the sixth respondent and the said David Sudhakaran is not in dispute. Admittedly, the sixth respondent and the said David Sudhakaran are fully qualified to the promotional post. In the present case, the sixth respondent entered into service in the year 1985, whereas, the said David Sudhakaran entered into service in the year 2009, after 24 years of sixth respondent's entry into the School. However, the said David Sudhakaran was granted promotion on the ground that he secured more marks in the interview conducted by the School and the discretionary mark awarded by the School is altering the qualification prescribed by the School. All is not well with the selection process conducted by the Management in granting promotion to



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the said David Sudhakaran. The sixth respondent is the senior most person than the said David Sudhakaran. Hence, the promotion granted to the said David Sudhakaran to the post of Headmaster by the petitioner School is highly arbitrary and illegal. This Court is not inclined to interfere with the impugned order issued by the fifth respondent.

7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.02.2023

Index : Yes / No

Speaking Order : Yes / No

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To

1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of School Education,
Fort St.George,
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2.The Director of School Education,
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M.DHANDAPANI,J.

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