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W.P.(MD).No.6130 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.6130 of 2016

Thiruvalluvar Kurukula Primary School,
Represented by its Secretary,
M.Arunkumar

... Petitioner

*(The name of the petitioner is substituted vide Court Order dated 28.02.2019 in
W.M.P.(MD).No.18275 of 2017)*

Vs.

1.The Director of Elementary School Education,
College Road,
Chennai – 600 006.

2.The District Elementary Educational Officer,
Trichy District.

3.The Assistant Educational Officer,
Thiruverumbur,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, to call for the
records pertaining to the proceeding of the second respondent dated 19.11.2015
in டி.க.நா: 4916 – 1 / 2015 and டி.க.நா: 4916 – 2 / 2015 dated



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19.11.2015 and quash the same as illegal and consequently directing the respondents to grant approval of the three secondary grade teachers selected by the School Selection Committee issued appointment order dated 29.08.2013 and release the salary and other allowances of the three teachers from the date of joining of the School namely “Thiruvalluvar Kurukula Primary School” Devarayaneri, Thiruverumpur, Trichy District within the period that may be stipulated by this Court.

For Petitioner : Mr.V.Palanichamy

For Respondents : Mr.V.Omprakash,
Government Advocate.

ORDER

This Writ Petition is filed challenging the order dated 19.11.2015 and consequently directing the respondents to grant approval of the three secondary grade teachers who were selected by the School Selection Committee and appointed on 29.08.2013 and release the salary and other allowances.

2. The School namely Thiruvalluvar Kurukula Primary School is the Private Aided Minority institution. The Government has granted grant-in-aid to the Secondary Grade Teachers salary in the year 1979 vide proceedings dated 26.02.1979. The School is having its own building consisting of 1st to 5th



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Standards and only two teachers were employed in the said School. The first respondent vide proceedings dated 28.07.2010, stated that the “Narikkuravar Educational Welfare Society” is the educational agency and approved the same. Further, the Committee has unanimously resolved S.Mahendran as Secretary. The second respondent vide proceedings dated 19.08.2010 approved the Education Committee as well as the Educational Agency. The Headmaster of the School namely, M.Nattarasan had retired on 31.05.2011 and his post became vacant. The Educational Agency sent a proposal to fill up the vacant post and the Education Committee had passed a resolution dated 10.12.2011 to this effect. The third respondent received the proposal and forwarded the same to the second respondent for approval. But the School without getting prior permission issued advertisement in newspapers on 10.07.2013. Thereafter, the applications were scrutinized and interview was conducted on 21.08.2013 and three candidates were selected. The Committee approved the selection of the candidates and thereafter issued the appointment order dated 29.08.2013 and the said three candidates had joined duty on 30.08.2013.

3. The third respondent frequently visited the School on various dates, that is on 07.11.2013, 22.11.2013, 12.12.2013, 13.12.2013, 23.12.2013 and 08.10.2014. The Secretary of the School submitted proposal for approval of the



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said 3 teachers and the third respondent vide proceedings dated 20.03.2014 rejected the same stating that the School has not obtained prior permission from the Department to fill up the said vacancy. The said rejection was challenged in W.P.(MD)No.10011 of 2015 and this Court vide order dated 22.06.2015 directed the School to rectify the mistakes and submit the same to the second respondent for passing appropriate orders. In the meanwhile, the third respondent had prepared a false statement and forwarded the same to the second respondent and the second respondent without conducting any enquiry passed impugned order. Hence, the present Writ Petition is filed.

4. The respondents have circulated a staff fixation order passed for the year 2012-2013 dated 20.04.2013. The students' strength for Standard-I is 17, Standard-II is 19, Standard-III is 13, Standard-IV is 15 and Standard-V is 16. Thus, the School is having totally 80 students. The respondents have fixed the teachers for the said 80 students as 3 teachers, that is 2 Secondary Grade Teachers and one subject teacher. But the School has selected 3 Secondary Grade Teachers and is seeking approval of appointment. The respondents have rejected the same by stating that the School was having Standards upto V, but the students' strength is only 80, the School has deliberately filled the surplus teacher post as well. As per the staff fixation order, 2 Secondary Grade



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Teachers were allotted, already 2 teachers were functioning in the allotted sanctioned post. Therefore, another 2 teachers who are recruited for the unsanctioned post / surplus post cannot be approved. Moreover, the School has selected the said candidates without getting prior permission. In fact, the School has submitted proposals for prior permission. The respondents before granting any prior permission for approval, the School has hurriedly conducted the selection process and selected 3 teachers. Prior permission is mandatory as per the rules and provisions of the Private School Regulation Act, especially when the Government is burdened with surplus teachers. Since the School had violated the same, the School is not having any right to seek approval. Moreover, there is no sanctioned post at all. As far as the staff fixation order is concerned, already 2 teachers were working and only 1 post is vacant. The School has selected the 3 teachers, but only one teacher can be accommodated in the vacancy. Therefore, the approval shall be granted by the educational authorities to **only one person**.

5. Even though the School has not obtained prior permission, this Court is directing the respondents to approve only one teacher and the School is at liberty to seek approval for only one teacher alone. Hence, the School shall submit their choice to approve one among 3 teachers, whom the petitioner's



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School has already selected. The School is directed to submit their choice of selecting one teacher within a period of one (1) week from the date of receipt of a copy of this order and the authorities after receiving the records, shall approve the same within a period of three (3) weeks therefrom.

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

06.04.2023

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

To

- 1.The Director of Elementary School Education,
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Chennai – 600 006.
- 2.The District Elementary Educational Officer,
Trichy District.
- 3.The Assistant Educational Officer,
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S.SRIMATHY, J.

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