



W.A.(MD)No.1533 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A.(MD)No.1533 of 2022

and

C.M.P.(MD)No.12973 of 2022

Sundarambal Middle School,

Rep. by its Secretary,

G.Joseph Jeyaseelan

... Appellant / Petitioner

-Vs-

1.The District Elementary Educational Officer,

DEEO's Office, R.M.S.Road,

Madurai-1.

Now re-designated as

The District Educational Officer,

O/o. The District Educational Officer,

Madurai.

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2.The Additional Assistant Elementary Educational Officer,
South Chithirai Street, South Range,
Madurai-1.

Now re-designated as

The Block Development Officer,
O/o.The Block Development Officer,
South Range,RMS Road, Madurai-1.

... Respondents / Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 12.10.2022 made in W.P.(MD)No.10454 of 2015 on the file of this Court.

For Appellant : Mr.Mohammed Suhail,
For M/s.Ajmal Associates
For Respondents : Mr.R.Baskaran,
Additional Advocate General,
assisted by Mr.D.Sadiq Raja,
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by D.KRISHNAKUMAR, J.]

Heard the learned counsel for the appellant and the learned Additional Advocate General for the respondents.

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2.The prayer sought for in the Writ Petition is to forbear the respondents from insisting prior approval under Rule 15(4)(c) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 in respect of the petitioner's school. The Writ Court, after considering the elaborate submissions made on either side, by an order dated 12.10.2022, dismissed the aforesaid Writ Petition. The relevant portion of the same is extracted hereunder:-

“8.Therefore, this Court is of the considered opinion that the respondents are directed to fix staff strength and issue staff fixation order based on the students strength in the petitioner's school within a period of six (6) weeks from the date of receipt of a copy of this order. If the teachers are surplus, the same may be transferred to some other needy schools as per the rules and guidelines and if there is surplus post without teachers, then the same shall be surrendered to the “ Director's Common Pool”.”

3.Aggrieved by the said dismissal order, the writ petitioner has filed this Writ Appeal.

4.Considering the facts and circumstances of the case, we are of the view that the prayer of the appellant / writ petitioner is not maintainable for the simple reason that the appellant institution is a non-minority institution.

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Therefore, it requires prior approval to fill up the vacancy. Hence, such prayer of the appellant / writ petitioner cannot be considered, therefore, the same was rightly rejected by the Writ Court.

5.The learned Additional Advocate General appearing for the respondents has produced the inspection report conducted in the appellant school on 20.06.2022 and submitted that there are surplus teachers in the appellant school.

6.In view of the above, this Writ Appeal fails and therefore, the same is dismissed with liberty to the appellant / writ petitioner to workout the remedy in the manner known to law, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
03.01.2023

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

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