



W.A. No.1705 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM:

THE HON'BLE MR. R. MAHADEVAN, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No.1705 of 2024 and C.M.P. No.12063 of 2024

- 1 The Director of Elementary Education
DPI Campus
College Road
Chennai 600 006
- 2 The Chief Educational Officer
Kallakurichi District
Kallakurichi
- 3 The District Elementary Educational Officer
Kallakurichi District
Kallakurichi
- 4 The Block Educational Officer
Chinnasalem
Kallakurichi District

Appellants

v

- 1 R. Priyadharshini
- 2 The Correspondent
Danish Mission Primary School
Alathi
Kalrayan Hills
Kallakurichi District 606 201

Respondents



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Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 15.09.2023 passed in W.P. No.17909 of 2023.

For appellants Mr. J.C. Durairaj
Additional Government Pleader

JUDGMENT

(Delivered by the HON'BLE ACTING CHIEF JUSTICE)

This writ appeal by the State impugns the order dated 15.09.2023 passed in W.P. No.17909 of 2023.

2 The brief facts leading to the institution of this writ appeal could be stated thus:

2.1 The first respondent preferred a writ petition being W.P. No.17909 of 2023 and along with her, two similarly placed persons also filed W.P.Nos.17913 and 17914 of 2023, calling into question, the legality and validity of the proceedings dated 25.05.2023 of the third appellant, in and by which, the proposal submitted by the second respondent school seeking approval of their appointment as Secondary Grade Teacher, was turned down.



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2.2 The learned Judge, *vide* order dated 15.09.2023, set aside the order impugned therein and allowed the writ petitions by remitting the matter to the third appellant with a direction that the second respondent school's proposal be considered afresh and orders passed for granting approval as sought by the second respondent school, provided the second respondent school satisfies all the norms prescribed for such appointment. It was further observed by the learned Judge that while passing orders, the directions given by this Court in the order dated 18.04.2022 in W.P. No.3439 of 2020 be borne in mind by the third appellant.

2.3 The correctness of the aforesaid order passed by the learned Judge as far as W.P. No.17909 of 2023 is concerned, is put to test in this writ appeal preferred by the State.

3 Heard the learned Additional Government Pleader appearing for the appellants/State and perused the materials on record.



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4 The following facts are not in dispute.

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4.1 This is the fourth round of litigation in all, the first respondent having filed three writ petitions earlier. The second respondent school is an aided minority school. After appointing the first respondent and two others as Secondary Grade teachers, the second respondent school submitted a proposal to the third appellant seeking approval of their appointment.

4.2 Since no orders were passed on the said representation, the first respondent filed W.P.No.25413 of 2019 (first round of writ petition) seeking a mandamus to the appellants to approve her appointment from the date of her initial appointment.

4.3 The said writ petition was disposed of *vide* order dated 25.09.2019 with a direction to the third appellant to consider and pass orders on the first respondent's representation dated 13.12.2018.

4.4 In pursuance thereof, the third appellant, *vide* proceedings dated 07.01.2020, rejected the second respondent school's proposal on the solitary ground that the second respondent school had already had surplus staff.



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4.5 The said proceedings of the third appellant was tested by the first respondent in the second round of writ petition, in which, *vide* order dated 18.04.2022, the impugned proceedings dated 07.01.2020 was set aside and the matter was remitted to the third appellant for granting approval of appointment, provided the second respondent school satisfied all the norms prescribed thereto. While remitting the matter so, it was specifically observed by this Court that G.O. Ms.No.165, School Education Department dated 17.09.2019, which sets out guidelines for deployment of excess teaching staff working in the aided minority and non-minority schools will not stand in the way of the third appellant in approving the appointment of the first respondent in the second respondent school, inasmuch as, the appointment of the first respondent was prior to the date of the said Government Order.

4.6 Notwithstanding the aforesaid order dated 18.04.2022 passed by this Court in W.P. No.3439 of 2020, once again, the third appellant had rejected the second respondent school's proposal on the same ground of surplus teachers.



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5 As rightly observed by the learned Judge, the rejection order of the third appellant cannot be allowed to stand, especially taking shelter under G.O.(Ms.) No.165, *supra*, since, as noticed earlier, it has been specifically held in the order dated 18.04.2022 passed in W.P. No.3439 of 2020, that the said Government Order cannot have application to the first respondent's case given the fact that the first respondent had joined the second respondent school prior to the date of the said Government Order. Superadded, from a reading of the penultimate paragraph of the order impugned, it is clear that the learned Judge has not given a positive direction detrimental to the interest of the State, without there being any rider. Rather, the learned Judge has remitted the matter to the third appellant for considering the proposal of the second respondent school afresh, provided the second respondent school satisfies the prescribed norms. We are in complete agreement with the said direction and we find no ground to interfere with the same.



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In such perspective of the matter, leaving it open to the third appellant to pass appropriate orders on the proposal of the second respondent school *qua* approval of appointment of the first respondent in the manner as observed by the learned Judge, we dismiss this writ appeal, however, sans costs. Connected C.M.P. stands closed.

[R.M.D., A.C.J.] [M.S.Q, J.]
14.06.2024

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THE HON'BLE ACTING CHIEF JUSTICE

and

MOHAMMED SHAFFIQ, J.

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