



W.A(MD) No.143 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.A(MD) No.143 of 2021
and
C.M.P.(MD)No.410 of 2021**

1.The Chief of Education Officer,
Office of the Chief of Education Office,
Tiruchirappalli,
Tiruchirappalli District.

2.The District Educational Officer,
Tiruchirappalli,
Tiruchirappalli District.

3.The Block Educational Officer,
Tiruverumbur,
Tiruchirappalli District.

... Appellants / Respondents 1 to 3

Vs

1.T.Joseph Ravi

... 1st Respondent / Writ Petitioner

2.Sri Murugan Aided Elementary School,
Asoor, Tiruverumbur,
Represented by its Secretary,
Mr.T.Karthikeyan

... 2nd Respondent / 4th Respondent



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the Order dated 08.11.2019 passed in W.P. (MD)No.21381 of 2019.

For Appellant : Mr.K.Selvaganesan
Additional Government Pleader
For Respondents : No appearance

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard the learned Additional Government Pleader appearing for the appellants. There is no appearance on the side of the respondents.

2. The first respondent herein was appointed as secondary grade teacher in the second respondent school on 13.07.2015. It is seen that the school management which is an aided non-minority school obtained prior permission from the competent authority for filling up the vacancy in the post of secondary grade teacher which was created by the retirement of one Mrs.M.Mekala. Copy of the proceedings dated 12.06.2015 has been enclosed in the typed set of papers. However, when the management



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submitted proposal seeking approval of the appointment, it was negated. Questioning the same, the appointee namely R1 herein filed W.P.(MD)No.21381 of 2019. The stand of the department was that there was no sufficient students strength in the concerned school and that there was district surplus. The learned single Judge rejected both these contentions. Paragraphs Nos.4 & 5 of the order impugned in the writ appeal read as follows:-

“4.From the materials on record, it is seen that the vacancy in the fourth respondent School arose on 15.06.2011. The fourth respondent School after obtaining prior permission from the Competent Authority, appointed the petitioner as Secondary Grade Teacher and forwarded the proposal to the second respondent for approval. The second respondent rejected the proposal, by relying on G.O.Ms.No.231, School Education Department, dated, 11.08.2010, which deals fixation of teacher-pupil ratio. The said reason of the second respondent for returning the proposal of the fourth respondent, is erroneous. In the present case, the vacancy arose in the sanctioned post and the respondents gave prior permission to fill up the said post to the fourth respondent School. Having given prior permission, it is not open to the respondents 1 and 2 to reject the proposal for approval of the appointment. Further, this Court, by order dated 02.07.2018 in W.P(MD).No.14011 of 2018, directed the District Elementary Educational Officer, now merged with the second respondent herein, to consider the proposal sent by the fourth respondent School for appointment of the petitioner as Secondary Grade Teacher. The second respondent has not considered the proposal



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submitted by the fourth respondent as per order of this Court and not considered the Inspection Report dated 24.10.2017 as directed by this Court and erroneously rejected the proposal in the light of G.O.Ms.No. 231, School Education Department, dated 11.08.2010. The reason given by the second respondent that the post can be filled up by deploying surplus teacher, is not applicable to the present case, as the second respondent has already given prior permission to the fourth respondent School to fill up the vacancy.

5.For the above reason, the orders passed by the second respondent, dated 09.03.2019 and the first respondent, dated 20.05.2019 are set aside. The second respondent is directed to consider the proposal sent by the fourth respondent School for the appointment of the petitioner as Secondary Grade Teacher at the fourth respondent School, by taking into consideration the proposal forwarded by the third respondent with his Inspection Report, dated 24.10.2017 and pass orders with regard to approval of the petitioner's appointment, within a period of six weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition is allowed.”

3.When the school management was permitted to fill up the vacancy, they cannot be faulted for having acted in terms of the permission granted by the department. After granting permission, the department cannot subsequently turn around and refuse to approve the appointment. The principle of estoppel will clearly operate against the department. The reasons given by the learned single Judge are sound. Interference with the impugned order is not warranted.



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WEB COPY 4. The Writ Appeal is dismissed. No costs.

(G.R.S., J.) (R.P., J.)
20.11.2024

Index : Yes / No
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