



W.A(MD)No.1101 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.1101 of 2024
and
CMP(MD)No.8283 of 2024**

1.The Director of School Education (Higher Secondary),
DPI Complex,
17, College Road,
Subba Road Avenue,
Nungambakkam,
Chennai – 600 008.

2.The Chief Educational Officer,
Madurai Road,
Tiruchirappalli – 620 008.

3.The District Educational Officer,
Collector Office Old Campus,
Tiruchirappalli-620 001.

... Appellants

VS.

A.S.Mohammed Ameen
S/o Later V.S.M.Abdus Salam,
Secretary and Correspondent,
Khajamian Higher Secondary School,
Khaja Nagar, Tirichirapalli-620 020.

... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 27.06.2023 made in W.P(MD)No.7257 of 2023.



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For Appellants : Mr.S.Shaji Bino, Special Government Pleader
For Respondent : Mr.V.Panneer Selvam

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JUDGMENT

(Judgment of the Court was made by **R.SURESH KUMAR, J.**)

This appeal has been directed against the order passed by the Writ Court dated 27.06.2023 made in W.P(MD)No.7257 of 2023.

2. That, the respondent school had appointed a teacher called, G.Hazira Begum as P.G Assistant (Tamil) in the respondent school, which post, in fact, is a sanctioned post and a vacancy caused, where, such an appointment by way of promotion had been given to the said individual namely, G.Hazira Begum and a proposal for the said appointment had been sent to the appellants department for approval. However, the approval was not given on the ground that, since there are excess teachers available in the school or the Management, instead of making re-deployment, the appointment given by way of promotion to this teacher as P.G Assistant (Tamil), is against the rule, especially, Tamil Nadu Private Schools (Regulation) Rules 2023. Therefore, such an appointment could not be approved. Accordingly, it was rejected through the order dated 09.02.2023 which was under question before the Writ Court in the writ petition filed by the respondent school management.



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3. Learned Writ Court having considered the factual matrix, has come to the conclusion that, the Tamil Nadu Private Schools (Regulation) Rules, 2023, had come into effect only from 29.03.2023, whereas, this appointment had been given in December 2022. Therefore, well before the rules come into force, if the appointment had been given, whatever the provisions which was available in Tamil Nadu Private Schools (Regulation) Rules, 2023, cannot be made applicable. Therefore, the said appointment made by the respondent school in respect of the teacher concerned in December 2022 as P.G Assistant (Tamil), shall be approved and accordingly, a direction was given by the learned Judge through the impugned order to approve the appointment and also the salary grant shall be released forthwith by the appellants department. Aggrieved over the same, the present appeal has been directed.

4. Mr.S.Shaji Bino, learned Special Government Pleader appearing for the appellants would submit that, it is not on the basis of Tamil Nadu Private Schools (Regulation) Rules, 2023, even as per the existing rule namely, Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, especially, Rule 15(4), the appointment, if any, to be made for the post of P.G Assistant (Tamil) by way of promotion, where, if there are more than one eligible teacher



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available in the school, the seniority shall not be violated without any plausible reason.

5. In this context, as per the present instructions he has received, the learned Special Government Pleader would submit that, it has been ascertained by the appellants department from the school management concerned that, there are four teachers already available other than the teacher who had been appointed, who are admittedly seniors to the teacher appointed. Therefore, violating or overlooking the seniority of all the four other teachers since this appointment had been given, that would go against the spirit of Rule 15 of the erstwhile 1974 rules. Therefore, for that reason alone, the present appointment which is sought to be approved as directed by the learned Judge through the impugned order, is against the rule. Therefore, it cannot be considered. Hence, the learned Special Government Pleader seeks indulgence of this Court against the impugned order.

6. Heard Mr.V.Panneer Selvam, learned counsel appearing for the respondent, who would submit that, out of the five teachers, though admittedly the appointed teacher was in 5th position, all the four other teachers have relinquished their chances of getting promotion and such relinquishment has



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been obtained from all these four teachers and after getting the relinquishment only, the 5th teacher has been considered for such appointment. Therefore, to that extent also, the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, have not been violated.

7. We have considered the said rival submissions made by both sides and have perused the materials placed before this Court.

8. It is a settled proposition of law that, if an order is challenged before this Court, where, if any reason stated in the order is questioned, for which, if the grounds are raised by the person who is attacking the order, that reason alone would be considered by the Court, based on which, whether the order in question would stand in the legal scrutiny or not, can be decided by the Court.

9. Once such a decision is taken and it has been concluded by the orders of the Court, subsequently before the appellate forum, the authorities cannot raise the point stating that, it is not only on that reason, the order was passed, but some more reasons are available now.



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10. That kind of improvement of the order passed by the authorities is not permissible in view of the law laid down by the Hon'ble Supreme Court in **Mohinder Singh Gill vs. Chief Election Commissioner** reported in (1978) 1 SCC 405.

11. When that being the position, except the only reason that, the Tamil Nadu Private Schools (Regulation) Rules, 2023, does not permit such kind of appointment without exploring the possibility of deployment of excess teacher, there cannot be any other reason to reject the proposal submitted by the school for approval.

12. The reason being that, the Tamil Nadu Private Schools (Regulation) Rules, 2023 had come into effect only from 29.03.2023, whereas, the appointment had been made in December 2022.

13. This position has been clearly considered by the learned Judge in the order impugned in paragraph 3 which speaks for itself. Therefore, on the said approach of the learned Judge and the conclusion he has reached, we do not propose to interfere. Therefore, the Writ Appeal fails. Hence, it is



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dismissed. No costs. The order passed by the learned Judge which is impugned herein, shall be complied with by the appellants department within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (G.A.M., J.)
04.07.2024

Index : Yes / No
Neutral Citation : Yes / No
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R.SURESH KUMAR, J.
and
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ORDER MADE IN
W.A(MD)No.1101 of 2024
DATED : 04.07.2024