



W.P(MD)No.15094 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15094 of 2023

and

W.M.P.(MD)Nos.12701, 12702 and 15171 of 2023

Samuel Nallathambi

... Petitioner

Vs.

1.The Director of Elementary Education,
Chennai - 600 006.

2.The District Educational Officer,
Elementary Education,
Thirunelveli.

3.The Block Education Officer,
Block Education Office,
Palayamkottai (Rural),
Thirunelveli.

4.G.S.Tamilselvi

5.K.Perinbaveni

6.S.Packiyavathi

7.M.Jeya Leela

... Respondents

*(R4 to R7 are impleaded vided order dated
28.02.2024 in W.M.P.(MD)No.4540 of 2024 in
W.P.(MD)No.15094 of 2023 by GRSJ).*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 2nd respondent herein Na.Ka.No.397/A2/2022 dated 20.04.2023 and the consequential impugned proceedings passed by the 1st respondent in O.Mu.No.012270/G4/2023 dated 24.05.2023 and quash the same and consequently direct the respondents herein to approve the transfer of educational agency of the petitioner school Sree Siddhi Vinayagar Senthamil Vidya Salai, Chathiram Puthukulam, Thirunelveli and the also the school committee / secretaryship of the said school.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.K.S.Selvaganesan,
Addl. Government Pleader for R1 to R3.
Mr.G.Prabhu Rajadurai for R4 to R7.

ORDER

Heard both sides.

2.The petitioner is an educational agency / Secretary for the petition mentioned school. He is now aged about 77 years. He, therefore, wanted to hand over the educational agency in favour of his daughter. Proposal was submitted in that regard. In the meanwhile, the impugned order bringing the school under direct payment system was issued. Challenging the same, this



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writ petition came to be filed. This Court granted interim order. As a result, the salary for the teachers could not be disbursed for the last several months. The aggrieved teachers got themselves impleaded.

3.The learned Additional Government Pleader submitted that the impugned order is only an adhoc arrangement and it would get automatically resigned, the moment approval is granted in favour of the petitioner's daughter.

4.I am not persuaded by the submission made by the learned Additional Government Pleader. I can understand if there is any factual dispute or rival claim. The petitioner is a single person educational agency. He after all wants to transfer it in favour of his daughter and objection has not been received from any quarter. An educational institution is brought under direction payment system, only if there are irregularities or any vacuum is created as regards the administration of the school. Such a situation has not cropped up. A smooth transition was proposed. I fail to understand as to why the department should have rushed to pass this kind of order. It is true that proposal given by the petitioner could not have been straightaway accepted. Documents will have to be perused and only after satisfying themselves that all the statutory requirements have been fulfilled, the proposal for change of Secretaryship /



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agency could have been accepted. But till then, the incumbent ought to have been allowed to discharge the duties of Secretary. It is not as if the term of the petitioner got over. Therefore, on the ground that the reason set out in the impugned order is arbitrary, it is set aside. The writ petition is allowed. The petitioner is directed to prepare the salary proposals immediately ie., within a period of three days from the date of receipt of a copy of this order and forward the same to the department. The salary arrears payable to the teachers shall be disbursed within a period of four weeks thereafter.

5.This writ petition is allowed on these terms. No costs.

01.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

Issue order copy on 04.03.2024.



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To:

WEB COPY

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WEB COPY



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G.R.SWAMINATHAN, J.

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