



W.P.(MD) No.17058 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.17058 of 2021

and

W.M.P.(MD) No.13989 of 2021

J.Banu Rekha

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Virudhunagar,
Virudhunagar District.
- 2.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.
- 3.The Secretary,
R.V.Thevar Memorial Girls High School,
Cholapuram, Rajapalayam,
Virudhunagar District.
- 4.V.Ramar,
Secretary,
R.V.Thevar Memorial Girls High School,
Cholapuram, Rajapalayam,
Virudhunagar District.



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5.R.Chitradevi,
Educational Agency,
R.V.Thevar Memorial Girls High School,
Cholapuarm, Rajapalayam,
Virudhunagar District.

6.R.Veeralakshmi,
Headmistress,
R.V.Thevar Memorial Girls High School,
Cholapuram, Rajapalayam,
Virudhunagar District.

7.R.Muruganantham,

8.M.Karthick Sundar,
Enquiry Officer,
R.V.Thevar Memorial Girls High School,
Cholapuram, Rajapalayam,
Virudhunagar District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in Letter No.153/2021 dated 21.04.2021 and the subsequent order passed by the 3rd respondent in his proceedings in Letter No.162/2021 dated 10.08.2021, quash the same and direct the 3rd respondent to permit the petitioner to continue in service and pay salary to the petitioner with effect from 10.02.2015 and continue to pay all monetary benefits.



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For Petitioner : Mr.K.Mahendran
For RR1 & 2 : Mr.V.Om Prakash
Government Advocate
For R3 : Mr.K.K.Kannan
For RR4 to 6 & 8 : No appearance

ORDER

Through the impugned order, the petitioner herein, who was working as Physical Education Teacher in the 3rd respondent-School, was removed from service. The said order is assailed by the petitioner on the ground that the said order was passed without obtaining 'prior approval' as required under Section 22(1) of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (hereinafter referred to as “the Act, 1973”).

2. As a matter of fact, Respondent No.3 sought for such prior approval by approaching Respondent No.1 and complaining inaction on the part of Respondent No.1, the 3rd respondent approached this Court by filing W.P.(MD) No.19266 of 2016. The said writ petition was disposed of by a



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learned Single Judge of this Court by an order dated 26th February, 2021 directing the 1st respondent to consider the representation submitted by Respondent No.3 herein dated 28.03.2016 and to pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of that order. However, Respondent No.3 instead of awaiting for granting of such approval, issued the impugned order dated 21.04.2021 without there being any approval as required under Section 22(1) of the Act, 1973.

3. For want of obtaining prior approval as required under Section 22(1) of the Act, 1973, which is mandatory in nature, the impugned order is liable to be declared as bad in law and accordingly, the same is declared as such and the writ petition is allowed duly setting aside the impugned order dated 21.04.2021. Consequently, the petitioner shall stand reinstated into the services of Respondent No.3 as Physical Education Teacher.

4. As there are serious allegations against the petitioner as well as Respondent No.3, about drawing of salary in the name of the petitioner, though the petitioner is alleged to be working at the same time in Police



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Department and an FIR is also registered against the petitioner and Respondent No.3 herein *vide* FIR No.151, dated 06.09.2022 of Virudhunagar Police Station, Dhalavaipuram, this Court is not inclined to pass any positive order directing for payment of backwages etc. However, it is left open to the petitioner to make appropriate claim and in case, if any such claim is made, the same shall be considered by Respondent No.3 in accordance with law. It is made clear that it is open for Respondent No.3 also to take appropriate action against the petitioner herein in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

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

ABR

To

- 1.The Chief Educational Officer,
Virudhunagar,
Virudhunagar District.
- 2.The District Educational Officer,
Srivilliputhur, Virudhunagar District.



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MUMMINENI SUDHEER KUMAR, J.

ABR

3.The Secretary,
R.V.Thevar Memorial Girls High School,
Cholapuram, Rajapalayam,
Virudhunagar District.

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