



W.A.(MD) No.654 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE P.VADAMALAI**

W.A.(MD) No.654 of 2018

C.Mary John

... Appellant/Writ Petitioner
Vs.

1.The Chief Educational Officer,
Kanyakumari District at Nagercoil.

2.The District Educational Officer,
Kuzhithurai at Marthandam,
Kanyakumari District.

3.The Correspondent,
Higher Secondary School,
Kallupallam, Edaicode Post,
Kanyakumari District-629 155. ... Respondents/Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 08.02.2018 passed in W.P.(MD) No.15341 of 2012.

For Appellant	:	Mr.S.Xavier Rajini
For RR1 & 2	:	Mr.D.Sadiq Raja
		Additional Government Pleader
For R3	:	Ms.J.Anandhavalli



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JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is directed against an order passed by a learned Single Judge of this Court dated 08.02.2018 in W.P.(MD) No.15341 of 2012 which the appellant/writ petitioner had filed seeking the issuance of Writ of Mandamus directing the 3rd respondent, an Aided Minority Higher Secondary School at Kallupallam in Kanyakumari District to appoint the writ petitioner as B.T. Assistant (in science) in the said school. The learned Single Judge had dismissed the said petition essentially on the ground that reliability of certain documents, which the petitioner had produced before him, is questionable.

2. The brief facts are:

- a) That the 3rd respondent is an aided minority linguistic school. The Management that runs this school also was running two other schools of which one was a self-financing school. According to the writ petitioner, on 05.06.1991, the writ petitioner was appointed in the 3rd respondent-School under the self-financing category on a consolidated



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salary. A year later, on 01.06.1992, he was transferred to the High School, Mankalai, where he worked till 24.03.1998. Thereafter, from 01.06.1999, he worked with the 3rd respondent-School.

3. The grievance of the writ petitioner is that he was required to work as a Teacher based on a promise made by the management of the 3rd respondent that he would be appointed eventually in a regular vacancy in the School. This promise, according to him, was made *vide* a written communication dated 15.11.2005, presumably by certain Sahadevan Nair, the Manager of the School. Some time in 2012, he laid the writ petition before this Court wherein he broadly has alleged that till 2012, there was no vacancy for a science teacher, and hence he had to wait, and once the vacancy had arisen and realising that he might not be appointed, he had approached this Court.

4. The 3rd respondent contested the petition and pleaded that the petitioner had never worked in its school. The learned Single Judge found that inasmuch as the documents relied upon by the petitioner to rest his cause of action is strongly disputed, he doubted its reliability and proceeded to dismiss



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the writ petition. As earlier outlined, this is now under challenge in this appeal.

5. Heard both sides. The learned counsel for the appellant very vehemently argued:

- a) That the Management of the 3rd respondent-School which even though is a linguistic minority school, is still amenable to writ jurisdiction of this Court, if they acted unfairly. Reliance was placed on the authority of the Hon'ble Supreme Court in ***Ivy C.da.Conceicao Vs. State of Goa and others*** [(2017) 2 MLJ 215 (SC)];
- b) The writ petitioner had produced the attendance register as well as the letter dated 15.11.2005 signed by the then Correspondent of the School to show that he was indeed working both in the 3rd respondent-School as well as in the High School Mankalai.
- c) If the letter dated 15.11.2005 is reckoned, the then Correspondent had made a categorical promise to the petitioner that he would be appointed in a regular vacancy in the 3rd respondent-School;
- d) When the writ petitioner had approached this Court, this Court passed



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an interim order restraining the 3rd respondent from filling up vacancies in its school. In its application for vacating the said interim order, the 3rd respondent-School has communicated that it has not filled up the vacancy, but later changed positions to inform the Court that it had appointed certain T.Wills in that slot. The 3rd respondent is seen to have change colours like a chameleon to come out with its inconsistent and contradictory stands.

6. Per contra, Ms.J.Anandhavalli, learned counsel appearing for the 3rd respondent hotly contended:

- a) That the writ petitioner never was a teaching faculty in any of its schools and the appointment order itself is in dispute;
- b) That at the relevant time, late Sahadevan Nair, the Manager of the school and the Headmaster of the school shared serious differences with the Correspondent, and the Manager of the School, Sahadevan Nair was a bachelor, and the Headmaster, who also shared the name Sahadevan Nair, claimed that a certain Will had been executed in his favour to claim right to run the school. In the mean time, on



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12.07.2007, the Manager of the School passed away and it is in these circumstances, the writ petitioner has come out with a letter dated 15.11.2005 and pressed the same into service by seven years later.

- c) So far as the copy of the attendance register is concerned, the appellant has produced a single sheet without even the name of the school at the top.

7. The learned Additional Government Pleader, who appears for the Department submitted that even the writ petition is not maintainable, since the dispute is essentially private in nature and that the Department has been unnecessarily dragged into this litigation.

8. The submissions made at the Bar are considered carefully. Keeping aside the entertainability of the writ petition for the moment, even if the case of the writ petitioner is considered on its merit, this Court is not convinced that it is one where this Court may exercise its jurisdiction under Article 226 of the Constitution. The long and short of the writ petitioner's case is that a promise was made that he would be appointed as a teacher and that it was breached.



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But whether the promise at all was made is now in dispute. At one level, the dispute involves breach of promise, but another level, it even questions the very existence of the promise. These are all the issues that can never be conveniently decided in a writ proceedings. Needless to state, this Court has very little option than to confirm the order of the learned Single Judge.

9. In conclusion, this Writ Appeal is dismissed and the order of the learned Single Judge dated 08.02.2018 passed in W.P.(MD) No.15341 of 2012 is confirmed. No costs.

(N.S.S., J.) (P.V.M., J.)
03.04.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
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and
P.VADAMALAI, J.

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To

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