



W.A.(MD) No.177 of 2014
and W.P.(MD) No.17350 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) No.177 of 2014

and

W.P.(MD) No.17350 of 2014

and

M.P.(MD) Nos.1 and 2 of 2014

W.A.(MD) No.177 of 2014:

S.Daniel Raj

... Appellant/Petitioner

Vs.

1.The Director of Elementary Education,
Chennai-6.

2.The Joint Director of Elementary Education,
Chennai-6.

3.The District Elementary Educational Officer,
Mannarpuram, Trichy-20.

4.The Assistant Elementary Educational Officer,
Trichy Urban,
Nandi Kovil Street, Trichy-2.



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5.The Roman Catholic Mission,
Tiruchirappalli Diocese,
Rep., by its Bishop,
Trichy-1.

6.The Correspondent,
Holy Redeemer's Boys Middle School,
Palakkarai, Trichy-8.

7.U.Jaquilin,
Secondary Grade Assistant,
Holy Redeemer's Boys Middle School,
Palakkarai, Trichy-8.

... Respondents/Respondents

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated
17.01.2014 made in W.P.(MD) No.7916 of 2009.

For Appellant	:	Mr.R.Subramanian
For RR1 to 4	:	Mr.D.Sadiq Raja Additional Government Pleader
For RR5 & 6	:	Mr.K.Sekar
For R7	:	Mr.Niranjan S.Kumar for Mr.V.Balaji

W.P.(MD) No.17350 of 2014:

S.Daniel Raj ... Petitioner

Vs.



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1. The Director of Elementary Education,
D.P.I. Campus, College Road,
Nungambakkam, Chennai-600 006.
2. The Joint Director of Elementary Education,
D.P.I. Campus, College Road,
Nungambakkam, Chennai-600 006.
3. The District Elementary Educational Officer,
Mannarpuram, Trichy-20.
4. The Assistant Elementary Educational Officer,
Trichy Urban,
Nandi Kovil Street,
Trichy-2.
5. The Roman Catholic Mission,
Tiruchirappalli Diocese,
Rep., by its Bishop,
Trichy-1.
6. The Correspondent,
Holy Redeemer's Boys Middle School,
Palakkarai, Trichy-8.
7. U. Jaquelin,
Secondary Grade Assistant,
Holy Redeemer's Boys Middle School,
Palakkarai, Trichy-8.

... 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



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Impugned Order passed by the 3rd respondent in Na.Ka.No.5681/A4/2013, dated 17.02.2013 (signed on 17.02.2014), quash the same and direct the 6th respondent to notionally promote the petitioner as Headmaster of the 6th respondent School with effect from 07.07.2009.

For Petitioner	:	Mr.R.Subramanian
For RR1 to 4	:	Mr.D.Sadiq Raja Additional Government Pleader
For RR5 & 6	:	Mr.A.John Vincent
For R7	:	Mr.Niranjan S.Kumar for Mr.V.Balaji

COMMON JUDGMENT

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

1.1. W.A.(MD) No.177 of 2014 is filed against the order of a learned Single Judge dated 17.01.2014 in W.P(MD) No.7916 of 2009, which the appellant herein had filed for issuance of a Writ of Certiorarified Mandamus, to set aside the order of the sixth respondent, dated 29.07.2009 promoting/appointing the seventh respondent as a Headmistress.



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1.2. This apart, there is yet another writ petition in W.P(MD) No.17350 of 2014. this was filed when the proceedings of the sixth respondent appointing the seventh respondent was confirmed by the third respondent *vide* the latter's proceedings dated 17.02.2013.

2. The facts are as follows:

- According to the writ petitioner, he was holding a Diploma in Teacher Education, and on 20.06.1977, he joined St. Sebastian Primary School, M.Alampatti, that on 04.06.1984, he was transferred to R.C. St. Xavier's Primary School, and that on 03.09.1986, he was transferred to Holy Redeemer's Boys Middle School, Palakkarai, all of which are managed by the 5th respondent, the Roman Catholic Mission. During the course of his service, he had completed his B.Lit., and also M.Ed., and they came to be registered in his Service Register as well.
- While so, on 19.06.2009, the post of Headmaster of the Holy Redeemer's Boys Middle School, Palakkarai, fell vacant, and since the



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appellant being the senior most eligible candidate for being promoted and appointed to fill up the vacancy, he made a representation on 04.07.2009 to the sixth respondent. He also made a similar representation to other authorities of the Educational Department. However, to his rude shock, the seventh respondent was appointed to fill up that vacancy.

- Alleging that no combined seniority is maintained by the Management, and the promotion is essentially given in terms of seniority within the school and that the principles of natural justice have been violated in overlooking his case, the appellant approached this Court by filing W.P(MD) No.7916 of 2009 challenging the appointment of the seventh respondent.
- The third respondent District Elementary Educational Officer, in his counter, has pleaded that the school in question is a Minority School and that, in terms of G.O.No.887, dated 05.06.1979, the seniority need



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not be maintained, so far as the Minority Schools are concerned.

- The sixth respondent/Correspondent of the school concerned, in his counter, has pleaded that given the experience of the seventh respondent, the Management has found her more suitable for the post.

3.1 When the matter came up before the learned Single Judge on 17.01.2014, the Court was informed that even on 01.08.2013, the appellant had superannuated, and acting on the same, the learned Single Judge chose to dismiss the writ petition since the substantial relief prayed for by the appellant/writ petitioner could not be granted to the petitioner before him. This order is now under challenge in the writ appeal.

3.2 As outlined earlier, when the proceedings of the sixth respondent appointing the seventh respondent was confirmed by the third respondent *vide* his proceedings dated 17.02.2013, the appellant herein filed W.P(MD) No.17350 of 2014.



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4. The learned counsel for the appellant made a valiant effort and contended that as on the date when the 7th respondent was appointed as the Headmistress of the school, she did not possess the requisite qualification, whereas the appellant had all the qualification and perhaps more. Even though today, the appellant had superannuated, the fact remains that if only the 7th respondent had not been promoted, then the appellant, by virtue of his seniority, would have been promoted and would have been monetarily benefited.

5. Per contra, the learned counsel appearing for the respondents made a joint statement that inasmuch as school in question is a minority run educational institution, the choice of the person appointed for a post is left exclusively to the Institution and it cannot be interfered with in judicial review. Reliance is placed to the ratio in *N.Ammad Vs Manager, Emjay High School and others* [(1998) 6 SCC 674].

6. After weighing the rival submissions, this Court has to state that at the end



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of the day the appellant did not have a vested right in him to be promoted, as the choice of the appointing person to a post in the minority educational institution rests with the institution. In other words, even if the question of eligibility of the 7th respondent is kept aside, the school management still has all the right under the Constitution to look for any other candidate overlooking the claim of the appellant. When the appellant did not demonstrate the existence of any vested right to be promoted, necessarily this Court may not go to his rescue. At the best, this Court can share it's sympathy, but cannot grant the remedy that he seeks.

7. For the above reasons, both the appeal as well as petition are dismissed.

No costs. Consequently, connected miscellaneous petitions are closed.

(N.S.S., J.) (P.V.M., J.)
15.04.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
PM/ABR



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To

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