



W.P(MD)No.26895 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.26895 of 2022 and
WMP(MD) Nos.21067 & 21068 of 2022

L.Kirubaimani,

... Petitioner

Vs

1. The District Educational Officer,
Kovilpatti,
Thoothukudi District.
2. The Block Educational Officer,
Ottapidaram - III,
Kovilpatti,
Thoothukudi District.
3. The Block Educational Officer,
Vilathikulam - II,
Thoothukudi District.
4. The Manager,
TNDTA Primary and Middle Schools,
CSI Thoothukudi, Nazareth Diocese,
Thoothukudi - 628 001.
5. The Correspondent,
TNDTA Middle School,
Kollamparumbu, Ottapidaram,



W.P(MD)No.26895 of 2022

Thoothukudi District.

6. The Correspondent,
TNDTA Primary School,
Vembar, Vilathikulam,
Thoothukudi District.

... Respondents

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 issued by the 2nd respondent Block Educational Officer in Na.Ka.No.1087/A2/2022 dated 07.11.2022 refusing to approve/countersign the relieving order of the petitioner QUASH THE SAME, and further DIRECT the 2nd respondent Block Educational Officer, Ottapidaram herein to approve/countersign forthwith the Relieving Order dated 12.08.2021 and 01.11.2021 submitted by the respondents 4 and 5 respectively and further direct the 3rd respondent to approve forthwith the transfer cum promotion of petitioner as Headmaster in the 6th respondent School w.e.f., 10.08.2021 and disburse grant aid towards his salary along with arrears.

For Petitioner	: Mrs.A. Amala.
For R1 to R3	: Mr. P.T.Thiraviam, Government Advocate
For R4	: Mr. Cibichacraborthy



W.P(MD)No.26895 of 2022

involved in two criminal cases in Crime No. 98 of 2015 and in Crime No.54 of 2015. Final reports in the above crime numbers have also been filed in CC Nos. 298 of 2015 and 80 of 2016 before the concerned Magistrate Courts. The fourth respondent has furnished the details with regard to the Crime No. 98 of 2015 and has not furnished the details with regard to the other Crime No.54 of 2015, which was pending as against this petitioner and therefore, the proposal for approval was once again returned by the second respondent in his proceedings in Na.Ka.No.1087/A2/2022, dated 07.11.2022 and the same is under challenge in this writ petition.

2.The main contention of the petitioner is that the fourth respondent Management is a minority Institution. The fifth and sixth respondent Schools are within the control of the fourth respondent Management and therefore, the fourth respondent is having every right to transfer the teachers, who are working under their Management and they are the competent authority to question with regard to the conduct of the staff working under their Management,



W.P(MD)No.26895 of 2022

if any. The second respondent is not having any right to deny grant of approval for relieving order of the petitioner.

3.The learned Government Advocate appearing for the respondents 1 to 3 submits that this petitioner is not only transferred but also promoted as Headmaster, by order dated 09.08.2021. According to the learned Government Advocate, the petitioner is also covered under the Terms and Conditions of Service of Teachers and other persons employed in a Private School. As per Chapter V of Terms and Conditions of Service of Teachers and other persons employed in a Private School envisages the Department to regulate promotion of persons employed in a Private School. He also referred to Rule 19 of the said code and the same is extracted as under.

“19. Qualifications, conditions of service, etc., of teachers and other persons employed in private schools. -

The Government may make rules regulating the number, qualifications and conditions of service (including promotion, pay, allowance, leave, pension, provident fund, insurance and age of retirement and rights as respect disciplinary matters) of the teachers and other persons employed in any private school.”



W.P(MD)No.26895 of 2022

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4. The learned Government Advocate further submits that though the disciplinary proceedings is within the purview of the Management, the respondent Department is having every right to question the eligibility of the staff for promotion, as per the above Code.

5. The learned counsel on either side submits that the criminal cases pending as against this petitioner are now ended in acquittal.

6. This Court considered the rival submissions made and also perused the materials placed on record.

7. The order impugned in this writ petition is an order of return passed by the Block Educational Officer, refusing to approve the relieving order of the petitioner. The petitioner, who was working as a Secondary Grade Teacher was not only



W.P(MD)No.26895 of 2022

relieved/transferred from the fourth respondent School but also promoted as a Headmaster. The proposal sent by the School Management for approval of the relieving order has been returned by the respondent Department on the ground that the petitioner is facing criminal cases. The contention of the petitioner that the fifth and sixth respondent Schools are the Minority Schools and coming under the Management of TNDTA Primary and Middle Schools and therefore, the Block Educational Officer is not having any authority in the affairs of the said schools cannot be accepted, when there is a provision, which enables the respondent Department to question the order of promotion as per Terms and Conditions of Service of Teachers and other persons employed in a Private School as stated supra. The petitioner being a teacher is responsible for shaping the future of the young students. If he was given promotion pending criminal trial, then it would pass a wrong message in the minds of the students, who are pursuing studies. Therefore, this Court is not inclined to interfere with the order impugned in this writ petition.



W.P(MD)No.26895 of 2022

8.Since it is reported that the criminal cases, which are pending as against this petitioner are ended in acquittal, the School Management shall send a fresh proposal for approval of promotion of the petitioner, within a period of four weeks from the date of receipt of a copy of this order. This petitioner and the School Management shall also furnish all the details, which are required by the second respondent/Department to reconsider the issue and take a decision in accordance with law, within a period of two weeks from thereon.

9.With the above directions, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.12.2024

NCC:Yes/No
Index:Yes
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W.P(MD)No.26895 of 2022

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W.P(MD)No.26895 of 2022

B.PUGALENDHI, J.

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Order made in
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