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W.A.(MD)NO.131 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.131 of 2023 AND

C.M.P.(MD)No.1749 of 2023

1. The Director of School Education,
School Education Department,
DPI Campus, College Road,
Chennai – 600 006.

2. The Chief Educational Officer,
Education Department,
Theni.

... Appellants/Respondents 1&2

Vs.

1. V.Selvam

... 1st Respondent/Writ petitioner

2. The Secretary,
Sri Varadha Venkataramana Higher Secondary School,
Venkatachalapuram,
Theni Taluk,
Theni District.

... 2nd Respondent / 3rd Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.(MD)No.16596 of 2021 dated 18.08.2022.



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W.A.(MD)NO.131 OF 2023

For Appellants : Mr.C.Venkatesh Kumar,
Special Government Pleader.

For R-2 : Mr.S.C.Herold Singh

* * *

J U D G M E N T

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. This writ appeal is directed against the order dated 18.08.2022 made in W.P.(MD)No.16596 of 2021 filed by the first respondent herein (V.Selvam).

3. V.Selvam was appointed as B.T.Assistant(Maths) in Sri Varadha Venkataramana Higher Secondary School, Theni Taluk in the year 1995. Disciplinary action was initiated against him by the school management on 06.09.2016. An enquiry officer was appointed and enquiry was conducted. The delinquent was found guilty. The management applied to the Department under Section 22 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 seeking approval for dismissing the delinquent. Unfortunately,



without even waiting for the approval from the competent authority,

dismissal order came to be issued on 05.07.2019. Challenging the same, Selvam filed an appeal before the Chief Educational Officer, Theni. The appeal was allowed and the dismissal order was set aside on 14.07.2020. But the school management did not comply with the order passed by the Department. Hence, Selvam filed W.P.(MD) No.16596 of 2021 for implementing the order of the Chief Educational Officer, Theni. The writ petition was allowed on 18.08.2022 in the following terms:-

“4. The learned Special Government Pleader appearing for respondents 1 and 2 submitted that Section 22(1) of the Act mandates prior permission of the Authorities before an order of dismissal of a teacher is passed and hence, the proposal for post approval of the dismissal order has been rightly rejected.

5. A perusal of the proceeding of the second respondent dated 19.01.2017, reveals that the School Committee had in fact, sent a letter on 28.11.2016, seeking for prior permission for dismissing the petitioner herein from services. It is their case that the approval petition has not been acted upon, till date. When the Authorities had not



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passed orders on the third respondent's application, seeking for prior permission for dismissing the petitioner, the school committee has no authority to dismiss such a Teacher, on the ground that the proposal is pending before the Authorities. A mere pendency of the applications, seeking for prior permission, will not justify the dismissal order and hence, I do not intend to interfere with the subsequent orders passed by the Authorities, rejecting the third respondent's proposal for approval of the dismissal order. Consequently, the petitioner herein will be entitled for reinstatement into service, since the order of dismissal has been found to be illegal and invalid.

6. Nevertheless, since the third respondent claims that his prior approval, seeking for dismissal of the petitioner from the services, is still pending before the second respondent herein, it will be appropriate to direct them to pass orders on the same, within a stipulated time. At this juncture, it is brought to the notice of this Court that the school is at present under the Direct Management of the Educational Authorities.

7. In the light of the above findings, there shall be a direction to the respondents 1 and 2 herein to forthwith pass orders, reinstating the



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petitioner back into service with effect from 05.07.2019, together with all service and monetary benefits, including the arrears of salary. The second respondent herein shall pass appropriate orders on the proposal sent by the third respondent herein dated 28.11.2016, within a period of three (3) months from the date of receipt of a copy of this order.”

Challenging the same, the Department has filed this writ appeal.

4. The Department is aggrieved by the fact that the learned single Judge had cast the entire financial liability to pay arrears on the Department. The learned Special Government Pleader reiterated all the contentions set out in the grounds of appeal.

5. The learned counsel appearing for the writ petitioner / first respondent herein submitted that the writ petitioner would be content and happy, provided that the arrears are settled. He is not bothered about the source from which the settlement comes.

6. The learned counsel for the school management submitted that the school management had submitted a proper proposal and



they had also sent reminders to the department. It was utterly inactive and different. According to the learned counsel, the department cannot take advantage of its own wrong.

7. It is true that that the Department ought to have expeditiously disposed of the proposal. Section 22 of the Act specifically mandates that without prior approval of the competent authority, an order of dismissal cannot be passed. The school management clearly acted in breach of the statutory mandate. Having contravened the statutory mandate, the school management cannot now blame the Department. We modify the order of the learned single Judge. The liability to pay arrears will fall only on the school management and the Department is relieved of the said liability. It is also submitted that subsequently the proposal was also rejected. The rejection order has been put to challenge in W.P.(MD)No.12724 of 2023. It is needless to say that the said writ petition has to be dealt with on its own merits and the outcome of this writ appeal will not have any bearing on the said writ petition. The school management shall settle the salary arrears payable to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.



WEB COPY 8. With the aforesaid observations, this writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
5th June 2025

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