

WP(MD).No.5635 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE K. RAJASEKAR

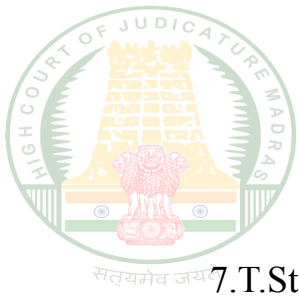
W.P.(MD)No.5635 of 2019 and
WMP(MD).Nos.4459 and 4460 of 2019

C.David Raj

.. Petitioner

Vs.

- 1.The Director of School Education,
College Road, Chennai - 600 006.
- 2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 3.The District Educational Officer,
Kuzhithurai, Kanyakumari District.
- 4.The Administrator,
India Evangelical Lutheran Church,
No.47, Eldams Road,
Teynampet, Chennai - 18.
- 5.The Corporate Manager of Lutheran Schools,
India Evangelical Lutheran Church,
Thiruvananthapuram Synod,
CLHSS Compound, Peroorkada-5,
Thiruvananthapuram, Thiruvananthapuram District.
- 6.The Correspondent,
Cancordia Luthern High School,
Kalparapottai, Kollemcode,
Kanyakumari District.



WP(MD).No.5635 of 2019

WEB COPY

7.T.Stephen

8.N.Surendran

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned appointment order issued by the 7th Respondent Thiru.T.Stephen vide R.C.No.101/2018 dated 01.06.2018 appointing the 8th respondent Thiru.N.Surendran as Headmaster of the 6th respondent School and the consequential proceedings issued by the 2nd respondent Chief Educational Officer vide Na.Ka.No.7832/E2/2018 dated 12.10.2018, quash the same and further direct the 2nd respondent herein to approve the appointment of the petitioner as Headmaster of the 6th respondent school w.e.f., the date of appointment viz., 01.06.2018 with salary, allowances and all attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For R-1 to R- 3 : Mr.N.Satheesh Kumar
Additional Government Pleader

For R-5 : Mr.S.C.Herold Singh

For R-6 & R-8 : Mr.E.V.N.Siva

For R-4 : Mr.Mohamed Imran
for M/s.Ajmal Associates

For R-7 : No appearance



WP(MD).No.5635 of 2019

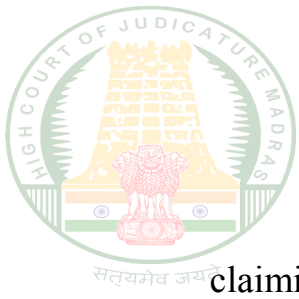
ORDER

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This Writ Petition has been filed challenging the impugned appointment order issued by the 7th Respondent Thiru.T.Stephen vide R.C.No.101/2018 dated 01.06.2018 appointing the 8th respondent Thiru.N.Surendran as Headmaster of the 6th respondent School and the consequential proceedings issued by the 2nd respondent Chief Educational Officer vide Na.Ka.No.7832/E2/2018 dated 12.10.2018 and further, to direct the 2nd respondent herein to approve the appointment of the petitioner as Headmaster of the 6th respondent school w.e.f., the date of appointment viz., 01.06.2018 with salary, allowances and all attendant benefits.

2. This Writ Petition is filed by the petitioner claiming as a Headmaster of the 6th respondent School.

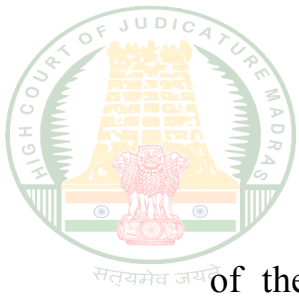
3. The case of the petitioner is that he was appointed as Headmaster on 31.05.2018 in the 6th respondent School by the then Correspondent of the Management, viz., Mr.Mohan. After the petitioner had taken charge as Headmaster, the Respondent No.7



WP(MD).No.5635 of 2019

WEB COPY

claiming himself as Correspondent of the School had taken charge and on the same day, he had appointed the Respondent No.8 as Headmaster. This appointment as well as the claim of the Respondent No.7 is not valid and the appointment order to Respondent No.8 has been issued by the incompetent person, i.e., the Respondent No.7 and there is no proper procedure adopted in the appointment made in favour of the Respondent No.8. Based on illegal act committed by the Respondent No.7, the 2nd respondent has issued an order of approval of appointment to the Respondent No.8 as Headmaster by order, dated 12.10.2018. Subsequently, the then correspondent, viz., Mohanan has challenged the nomination of the Respondent No.7 as Correspondent by initiating writ proceedings in W.P(MD).No.13107 of 2018 and the same was closed by this Court vide order, dated 28.09.2018 with liberty to the then Correspondent Mohanan to approach the interim Administrator appointed by this Court vide order, dated 31.07.2018 in TR.C.S.No.741 of 2017. At this juncture, the interim Administrator had taken charge and he made several decisions including the cancellation of appointment of the Respondent No.7 as Correspondent on 06.12.2018. Apart from that, the Administrator has also issued various proceedings for administration



WP(MD).No.5635 of 2019

WEB COPY

of the school. Thereafter, the petitioner has come forward with the present Writ Petition challenging the appointment of the Respondent No.8, dated 01.06.2018 and also consequential order of approval, dated 12.10.2018.

4. The learned counsel appearing for the petitioner submits that originally the School was under the management of India Evangelical Lutheran Church, Thiruvananthapuram Synod, though the School was situated at Kanniyakumari District. The proper Synod to appoint a Correspondent is India Evangelical Lutheran Church, Thiruvananthapuram Synod, whereas, the Respondent No.7 was claiming himself as Correspondent based on Kanniyakumari Synod is not proper. He has also stated that due to illegal appointment of the Respondent No.7, subsequent act of appointment of Respondent No.8 as Headmaster by the Respondent No.7 is also illegal and consequential order of approval is also bad under law. He further submitted that the appointment of the Respondent No.8, who was not working at the time of relevant period in the concerned school, is also to be held against him since the teachers, who were already working in the school, have not been taken

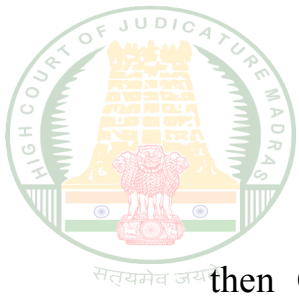


WP(MD).No.5635 of 2019

WEB COPY

for consideration of the appointment as 'Headmaster', which is clearly in violation of settled principles of law. He has also relied on order passed by this Court in W.P(MD).No.13017 of 2018, dated 28.09.2018, wherein, the then Correspondent, viz., Mohanan was given liberty to redress his grievance as against the appointment of the Respondent No.7 before the interim Administrator. As per the Division Bench Judgment of the Kerala High Court, vide order, dated 16.09.2021 made in *W.A.Nos.1097 of 2021* etc., batch, the said Correspondent Mohanan was continued for further period till the new election is concluded and new Manager was elected in accordance with law. Thereby, the said Mohanan was permitted to continue as Correspondent by the school till 31.03.2020 and therefore, the action taken by the Respondent No.7 is void in law.

5. The learned counsel appearing for the respondents 6 and 8 submitted that the prayer in this Writ Petition is not maintainable, as the relief sought for is based on the challenge to the nomination of the Respondent No.7 and the consequential appointment made by the Respondent No.7. It was argued that the appointment of the Respondent No.7 as Correspondent has not yet been set aside by any Court. While the

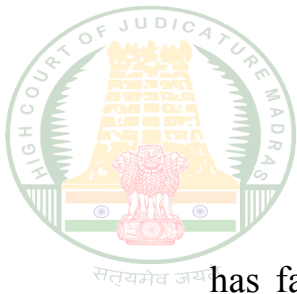


WP(MD).No.5635 of 2019

WEB COPY

then Correspondent, Mohanan, had challenged the appointment, the petitioner has not chosen to challenge the authority of the Respondent No.7. Further, it was submitted that the appointment of the Respondent No.8 was made by the validly appointed Correspondent and subsequently, the appointment of the Respondent No.8 was approved as per the relevant Rules. Hence, the petitioner is not entitled to the relief sought for in the present Writ Petition.

6. The learned counsel for the respondents 6 and 8 also invited my attention to the fact that although in W.P.(MD)No.13107 of 2018, liberty was granted to the petitioner therein to challenge the appointment of the Respondent No.7, the petitioner had not pursued such a challenge with the interim Administrator. According to the proceedings dated 06.12.2018, the interim Administrator had also removed the Respondent No.7 from the position of Correspondent, which acknowledges that the Respondent No.7 alone had acted as Correspondent from 01.06.2018 to 06.12.2018. In this context, the petitioner is not entitled to claim that Mohanan continued as Correspondent, nor can the petitioner assert that the appointment made by Mohanan on 31.05.2018 is valid. The petitioner



WP(MD).No.5635 of 2019

WEB COPY

has failed to challenge the appointment order of the Respondent No.7 before the order passed by the interim Administrator. He further submitted that the appointment of the Headmaster of the minority institution is at the sole discretion of the minority institution. The only requirement is that the person appointed possesses the requisite qualifications. In support of his contention, he relied on the judgment of the Hon'ble Supreme Court in the case of *Ivy v. Da Conceicao vs. State of Goa and others* reported in (2017) 3 SCC 619. He further contended that the minority management has the right to select any person as Headmaster, whether from within the same school or from outside.

7. The learned Additional Government Pleader has also stated that the appointment of the Respondent No.8 was made in accordance with the procedure and that he had qualified for the post of Headmaster. Furthermore, his appointment has been duly approved by the official respondents. Therefore, there is no infirmity in either of these two orders.

8. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.



WP(MD).No.5635 of 2019

WEB COPY

9. Admittedly, the Respondent No.8 was appointed by the Respondent No.7 by impugned proceedings, dated 01.06.2018. The petitioner has also produced the order of appointment of the Respondent No.7 issued by the 2nd respondent, wherein, it is stated that based on the communication made from the General Secretary of the India Evangelical Lutheran Church, viz., Muthuraj, the Respondent No.7 was accepted to be appointed as Correspondent. By invoking their power, the Respondent No.7 has appointed the Respondent No.8.

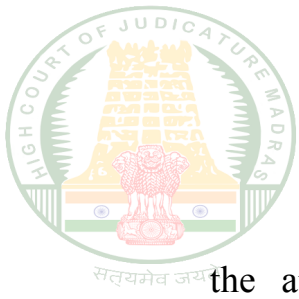
10. It is also pointed out by the learned counsel for the petitioner that there is a Circular issued by the Respondent No.7 as Correspondent on 08.06.2018, wherein, it had been mentioned that a new Headmaster would be elected on that day and accordingly, the Respondent No.8 was also appointed on 11.06.2018. Hence, the Respondent No.8 could not claim to be Headmaster appointed from 01.06.2018. Further, on perusal of the above Circular, it is seen that the petitioner has also subscribed his signature, acknowledging the fact that all the teachers working in the School were intimated that the new Headmaster would take charge on 11.06.2018.



WP(MD).No.5635 of 2019

WEB COPY

11. The Circular dated 08.06.2018 reveals that the intimation was circulated to all the teachers, who are working in the School that the new Headmaster would be elected by the then Correspondent, i.e., Respondent No.7. Accordingly, it is also submitted by the petitioner that the Headmaster was appointed on 11.06.2018. When this Court has enquired the petitioner why he has not raised any objection if he claims to be a Headmaster appointed on 31.05.2018 itself, it was replied that the then Correspondent, i.e., Respondent No.7, has threatened the teachers to accept the Circular and to subscribe their signatures. Though the petitioner is trying to give reasons for not objecting for selection of new Headmaster for the School, his action of subscribing the Circular accepting the intimation for selection of new Headmaster shows that he was not performing duties of Headmaster and this view is further strengthened by the fact that his signature has been subscribed as, he is a teacher working in the School. I am of the view that the explanation of the petitioner is not acceptable, since having claimed that he has been appointed as a Headmaster on 31.05.2018 itself, he ought not have accepted the Circular issued by the Respondent No.7 for selection of the Headmaster, i.e., Respondent No.8 herein. He ought to have challenged



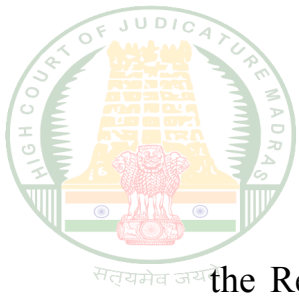
WP(MD).No.5635 of 2019

WEB COPY

the appointment immediately or protested the steps taken by the Respondent No.7 for appointment of the Respondent No.8.

12. Admittedly, the petitioner herein has awaited for almost more than a year and was a silent spectator watching the legal proceedings initiated by the then Correspondent, Mr.Mohanan, who is said to have appointed the petitioner as Headmaster on 31.05.2018 itself.

13. The Challenge made by Mohanan to the appointment of the Respondent No.7 as a Correspondent has not yielded any result and the writ proceeding was disposed off with a direction to Mohanan to challenge the appointment/claim of the Respondent No.7 as a Correspondent with the Interim Administrator. Mohanan had not chosen to challenge the appointment of the Respondent No.7 before the Administrator. Similarly, the petitioner herein has also not challenged the appointment of the Respondent No.7 as Correspondent and the facts stated before me shows that he accepted the appointment of the Respondent No.7 as a Correspondent. Having accepted the Respondent No.7 as a Correspondent, he is estopped from once again claiming that

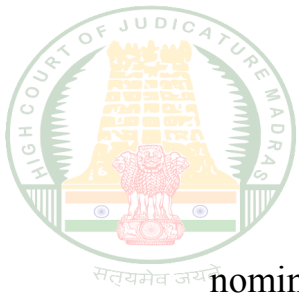


WP(MD).No.5635 of 2019

WEB COPY

the Respondent No.7 was appointed illegally and the Respondent No.7 has no power to appoint the Respondent No.8 as a Headmaster.

14. The petitioner has also contended that the nomination of the Respondent No.7 made by Kanniyakumari Synod was not valid and the proper authority to nominate the Correspondent of the School is Thiruvananthapuram Synod. However, the subsequent development shows that the interim Administrator was appointed and till the interim Administrator removed the Respondent No.7 from the post of Correspondent, the Respondent No.7 had continuously acted as a Correspondent of the School and also the Respondent No.8 had also acted as Headmaster. Further, the elections for the Synod of Thiruvananthapuram were also concluded and as stated by the petitioner, by invoking its powers, Thiruvananthapuram Synod has ratified the appointment of the Respondent No.8 as a Headmaster, thereby, the appointment of the Respondent No.8 is also validated by Thiruvananthapuram Synod. Since Thiruvananthapuram Synod has accepted the appointment of the Respondent No.8 as a Headmaster, the appointment made by the Respondent No.7, who was claimed to be



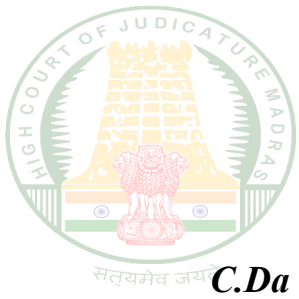
WP(MD).No.5635 of 2019

WEB COPY

nominated by Kanniyakumari Synod as a Correspondent, would noway invalidate the appointment of the Respondent No.8 at this point of time. Hence, I am of the view that it is not necessary to dislodge the Respondent No.8 from the post of Headmaster.

15. Similarly, the appointment of the Respondent No.7 as Correspondent has already reached its finality in the earlier round of litigation filed by Mohanan, further re-consideration of the validity of the Respondent No.7 as Correspondent could not be considered in this Writ Petition. Hence, the relief claimed against the Respondent No.7 is hereby rejected.

16. With regard to the selection of the Respondent No.8 is concerned, the Hon'ble Supreme Court in the case of *N.Ammad Vs. Manager, Emjay High School and others* reported in (1998) 6 SCC 674, has observed that the Management is free to find out any qualified persons either from the staff of the same school or outside to fill up the vacancy. This is the recognized right of the minority institution in the appointment of teacher. The Hon'ble Supreme Court in the case of *Ivy*



WP(MD).No.5635 of 2019

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C.Da Concericao vs. State of Goa and others reported in **2017 (3) SCC 619**, had held that whenever the appointment is made for the senior most post, for which rules were not applicable, but, they shall not act arbitrary or unfairly in dealing with the selection out of the eligible candidates. The minority institution may not be compelled to go by seniority alone, but it must follow a criteria, which is rational. Hence, in view of the same, I am not inclined to allow this Writ Petition.

17. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

19.06.2025

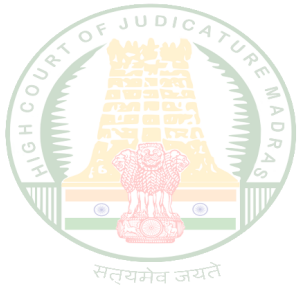
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WP(MD).No.5635 of 2019

WEB COPY

- To:
- 1.The Director of School Education,
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 - 2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
 - 3.The District Educational Officer,
Kuzhithurai, Kanyakumari District.



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WP(MD).No.5635 of 2019

K. RAJASEKAR, J.,

trp/Lm

W.P.(MD)No.5635 of 2019 and
WMP(MD).Nos.4459 and 4460 of 2019

19.06.2025