

A.Vijaya Vs. 1.The District Elementary Educational officer,

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Court : Chennai

Decided On : Mar-06-2015

Judge : K.Ravichandrabaabu

Appellant : A.Vijaya

Respondent : 1.The District Elementary Educational officer,

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

06. 03.2015 CORAM THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU W.P.(MD)No.3141 of 2015 & M.P(MD)No.1 of 2015 A.Vijaya ... Petitioner Vs. 1.The District Elementary Educational Officer, Thoothukudi District, Thoothukudi. 2.The Assistant Assistant Elementary Educational Officer, Pudukottai, Thoothukudi District. 3.The Correspondent, R.C.Diocese, R.C.Primary Schools, T.Saveriyarpuram, Thoothukudi District. 4.The Headmaster, R.C.Primary School, T.Saveriyarpuram, Thoothukudi District. ...Respondents PRAYER Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order vie O.Mu.No.3348/Aa3/2014 dated 19.11.2014 passed by the first respondent and quash the same and consequently direct the first and second respondents to prove the petitioner's appointment in the fourth respondent School from the date of her appointment i.e. from 15.07.2013 with all consequential benefits and pass such orders by this Court may deem fit and

proper. !For Petitioner :Mr.T.Antony Arul Raj ^For Respondents :Mr.J.Gunaseelan Muthiah Govt. Advocate for R1 & R2 :Mr.Xavier Arul for R3 & R4 :

ORDER

Mr.J.Gunaseelan Muthiah, learned Government Advocate takes notice for the respondents 1 and 2. Mr.Xavier Arul Raj, learned Counsel takes notice for the respondents 3 and 4 and by consent of both the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the order of the first respondent dated 19.11.2014, wherein and whereby the proposal sent by the Management seeking for approval of the petitioner's appointment was rejected on the ground that there are surplus teachers available within the same Corporate Management of the fourth respondent School.

2. The learned Counsel appearing for the petitioner submitted that the issue involved in this case is squarely covered by various earlier decisions of this Court, wherein the similar objections raised, were rejected. One such decision was made in W.P.Nos.4246 and 16678 of 2004 dated 29.04.2008 wherein paragraphs 3 to 5, it is observed as follows: "3. The learned Counsel for the petitioner submits that the petitioners' appointments are not approved on the ground that there are excess teachers available in the other schools established and administered by the very same third respondent Management and the same cannot be a ground to deny approval. Heard the Learned Counsel for respondents. Admittedly, the petitioners are appointed in the third respondent school, which is a middle school and only two teachers post are sanctioned to the said school and the petitioners are appointed in one of the sanctioned post. Whether the approval of appointment can be rejected for a teacher appointed in a private aided school on the ground that in other schools of the very same Management excess teachers are working was considered by this Court in W.P.Nos.10350 to 10352 of 2006 and by judgment dated 08.12.2006, the said contention was negatived, following the judgment of the Full Bench reported in 2006 (5) CTC385(Director of Elementary Education, Chennai-6 and others -vs- S.Vigila and another). In para 23 of the Full Bench judgment reads as follows:-

"3. Keeping in view the various relevant aspects, we feel that G.O.Ms.No.525 dated 29.12.1997 should be interpreted in the following manner:- (1)The ratio of students teacher strength as indicated in the G.O should be primarily considered by taking each individual standard/section as a unit. (2)The minimum strength of teachers required obviously should not fall below the number of standards/section in a School. In other words, if there are five standards, obviously the minimum number of teachers should be five, out of which one would be the Headmaster. (3)If the students' strength in a particular standard exceeds 60, at that stage, an additional section is required to be created requiring the section of a second teacher and the strength reaches 100, the post of a third teacher is required. (4) Even after maintaining the aforesaid ratio by taking into account the students' strength of each individual standard and additional section, as the case may be, by keeping in view the teacher-students ratio 1:40 of the entire school if the teachers strength is required to be increased, the same has to be allowed, but in no case, the teachers' strength should be less than the number of standards including the additional sections. If more teachers are thus sanctioned keeping in view the over all strength of the School the authorities of the school should create additional section in respect of any particular standard according to the need and convenience keeping in view the standard of education. This requirement is not only in respect of Aided Schools or Government schools, but also in respect of any Private Recognized school. In other words, this ratio is to be maintained for any school which required recognition. It would be obviously open to the Government to formulate appropriate norms in consonance with the above observation and provisions of the Constitution."

4. The said writ petition was allowed not only on the basis of following the Full Bench Judgment, but also on the basis of the decision made in W.P.No.4572 of 2006 dated 01.09.2006, wherein also this Court repelled such a stand taken by the respondents and ultimately the writ petition was allowed. Learned Counsel for the petitioner also submits that the said order passed by this Court on 08.12.2006 is implemented and no appeal has been filed. The Learned Counsel also cited similar orders passed by this Court in W.P.Nos.3026, 3027, 3028, 3029 and 3031 of 2004 by order dated 03.10.2007, by holding that excess teachers available in other schools cannot be a ground to deny approval of the appointment of teachers

appointed in sanctioned posts.

5. Following the above judgment, these writ petitions are allowed with a direction to the District Elementary Educational Officer, Tuticorin, to approve the appointment of the petitioners from 01.12.2001 and 09.07.2001 respectively, on verification of the petitioners' qualifications and the eligibility of the third respondent Management to retain the post in which the petitioners are appointed. Necessary orders are directed to be passed within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs."

3. A perusal of the said decision would show that the learned Judge after considering the other decisions made by this Court, allowed the writ petition with a direction to the educational authorities to approve the appointment of the petitioners therein.

4. In fact, I considered similar issue in W.P(MD)No.16841 of 2014 dated 05.02.2015 and by following the other decisions, similar contentions of the respondents were rejected.

5. Accordingly, by following the above orders, this writ petition is allowed and the impugned order of the first respondent is set aside and the respondents are directed to approve the appointment of petitioner with effect from the date of appointment and disburse all the monetary benefits available to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous petition is closed. 06.03.2015
Index :Yes/No Internet :Yes/No gsr TO1The District Elementary Educational Officer, Thoothukudi District, Thoothukudi. 2.The Assistant Assistant Elementary Educational Officer, Pudukottai, Thoothukudi District. K.RAVICHANDRABAABU,J
gsr W.P.(MD)No.3141 of 2015 06.03.2015

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