

(2011) 10 MAD CK 0033

In the Madras High Court

Case No : Writ Petition (MD) No. 8854 of 2008

A. Antony Savarimuthu

APPELLANT

Vs

The District Educational Officer, Tenkasi, The Manager, TDTA,
High/Higher Secondary School/ Spl. Schools, Tirunelveli
Diocese, CSI Diocese Office, Palayamkottai, Tirunelveli and
The Correspondent, Church of South India, Tirunelveli
Diocese, Barenbruck Higher Secondary School, Bungalow
Surandai -627 859

RESPONDENT

Date of Decision : 18-10-2011

Acts Referred:

Citation : (2011) 10 MAD CK 0033

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : Veera Kathiravan, for the Appellant; M. Govindan, Special
Government Pleader for 1st Respondent and Mr. S. Meenakshisundaram for
Respondents 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Honorable Mr. Justice K. Chandru

1. This writ petition has been filed by a School Teacher who was appointed by the then Correspondent of Barenbruck Higher Secondary School, Tirunelveli District vide order dated 12.08.2008. The order made by the then Correspondent stated that he was appointed as B.T. Assistant (Science) and his appointment will be subject to the approval of the District Educational Officer and his appointment is also subject to the Diocesan Rules. The power under which the said appointment was made is not stated in the impugned order. But subsequently, it transpires that there was a litigation between different factions of the church against the Bishop of Tirunelveli Diocese in several Courts. The petitioner by the impugned order dated 01.09.2008 was informed that his appointment was illegal as it was made by one S. Herbert Santhappa as correspondent and one A. Danial Sigamani

Simeon as manager of the T.D.T.A schools was illegal and he cannot continue in the said appointment as the High Court was permitted the Diocese of Tirunelveli represented by its Bishop to continue the administration.

2. At the relevant time, similar cases were filed and several teachers were rushed to this Court and two teachers namely, S. Arun Arockiaraj and A.M. Sankey John filed W.P.(MD)Nos.8131 and 8132 of 2008 respectively and they have obtained interim order from this Court.

3. In this case, notice of motion was ordered and interim injunction was granted only for a period of 8 weeks and thereafter, which was not extended further. On notice from this Court, the District Educational Officer, Tenkasi has filed a counter affidavit. In the counter affidavit, it is stated that there are two rival groups in the Tirunelveli TDTA management. The school management has been removed and changed by a rival group and the appointment made by the previous management was derecognized. Unless a final conclusion is reached the litigation between the parties, the Department cannot interfere and the Department can only approve the appointment made by the right management.

4. In the counter affidavit filed by the second respondent, it was stated that the administration of the diocese was headed by Rev. Bishop and the appointment can only be made by a Standing Committee and higher education and the orders passed by the illegally officiating correspondents by appointing the petitioner as B.T. Assistant cannot be recognized and the petitioner did not work in the school and at present, he is working in a private school near Shengottah. He also left the school without any intimation and there was no cause subsisting.

5. It is now brought to the notice of this Court that the two writ petitions filed by M/s. S. Arun Arockiaraj and A.M. Sankey John in W.P.(MD)Nos.8131 and 8132 of 2008 were tried along with several other writ petitions and they were disposed of by a common order, dated 28.05.2009. In the common order, in Paragraph 178 reads as follows:

178. In the result, this Court is of the considered view that the illegality committed by the Secretaries/Correspondents/Managers in the matter of appointment/promotion/re-employment etc., in colleges and schools run by the Diocese, cannot be allowed to perpetuate and hence all the writ petitions filed by the Teachers/Lecturers who have gained illegal appointments/promotions/orders of re-employment are dismissed.

6. The said matter was taken on appeal by the affected teachers in W.A. (MD)Nos.245 of 2009 and batch of cases. They were disposed of by a common judgment, dated 26.03.2010. The order passed by the learned single Judge is set aside and in respect of specific cases, the Division bench held that the office bearers who took charge after the disposal of the civil revision petition in C.R.P.D.Nos.457 and 458 of 2009 should not fill up vacancies and the matters should be made to wait till the decision in O.S.No. 2898 of 2008.

7. Those two writ petitioners did not go on appeal. But in other cases, the Division Bench passed orders. But the Division bench did not remand the matter back to single Bench in view of the respondents themselves agreeing to issue appropriate notice to those authorities. Therefore, in the present case, the only point to be considered was that having found the petitioner was appointed illegally by the Correspondent who was not empowered to do so and approved by the manager who was also not authorized to do so cannot be heard to say that his termination was illegal.

8. It is, at this juncture, learned counsel for the respondent brought to the notice of this Court that the person who was responsible for making such appointment and who motivated the teachers one A. Jacob Chelliah who himself wrote to the Department including to the District/Assistant/Additional Elementary Educational Officer by a common letter, dated 29.09.2008 stating that the appointment in respect of all the primary and middle school managers only vests with the Bishop and that it was regrettable on his part that he was appointed by one Chakravarthy as manager and he had also acted contrary to the Rules. Therefore, he made a declaration stating that all appointments were made by him on 11.08.2008 as not valid and also revoked the same. He also requested the Department not to consider those appointments.

9. In the light of the same, there is no case made out for the relief claimed by the petitioner. Hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.