

(2003) 04 MAD CK 0137

In the Madras High Court

Case No : Writ Petition No"s. 12932 to 12938 and 13263 of 1996 and WMP.
No"s. 17501 to 17511 and 17952 of 1996

J. Nici Sugantham, P. Paukkani Ponnammal, P. Ruby Hena
Devi, J.R. John Samuel Nallathambi, D. Sathia Samuel, J.
Jebarathnam, M. Beaulah Pushpam and A. Palaniammal

APPELLANT

Vs

District Elementary Educational Officer and Others

RESPONDENT

Date of Decision : 30-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 2 MLJ 621

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : R. Nadana Sapabathy, for the Appellant; S.P. Prabhakaran, A.G.P (Education) for Respondents 1 and 2 and A. Ashok Kumar, for Respondent 3 in WP. Nos. 12934, 12935 and 12937/96, for the Respondent

Judgement

P.K. Misra, J.—All the writ petitions were heard together and shall be governed by this common Judgment For convenience reference is made to averments in WP. No. 13263 of 1996. The said petitioner is working as a teacher in third respondent school from 6.8.1984. She had obtained Secondary Grade Teacher"s Certificate from Karnataka Secondary Education Examination Board, Bangalore in 1982. After the petitioner had joined the service on the basis of such certificate, allegations were received that the certificate produced by the petitioner was not a valid certificate. Action was sought to be taken against the petitioner and many such teachers and several writ petitions were filed by them including the present petitioner. The batch of cases was disposed of by judgment dated 14.7.94. The termination/suspension orders were quashed. The writ petitions were allowed on the following terms :-

" 10. For the reasons stated above, these writ petitions are allowed in the following terms:

- (i) The orders terminating the services of some of the petitioners are quashed.
- (ii) The orders suspending the service of some of the petitioners are also quashed.
- (iii) The petitioners are granted two months time to make applications before the Karnataka Secondary Education Examination Board, Bangalore, to decide as to whether the Teachers Certificate Higher and the marks cards were issued to them by the said Board and if so whether they were genuine and valid. The Board shall give an opportunity to the petitioners and serve notice on them stating the grounds on the basis of which the Board asserts that the certificates and the marks cards were not issued by them and are not valid and genuine. It would be then open to the petitioners to put forth their say and to adduce such evidence as they may desire. The Karnataka Secondary Education Examination Board shall decide within three months from the date of the petitioners make applications and intimate the same to the Director of Elementary Education, Tamil Nadu.

Thereafter, according to the decision communicated by the Karnataka Secondary Education Examination Board, the Director of Elementary Education, Tamil Nadu, shall direct the concerned institutions in which the petitioners are working, to take action in accordance with law and in conformity with the decision communicated by the Karnataka Secondary Education Examination Board and the observations made in this order. If the petitioners do not approach the Karnataka Secondary Education Examination Board within two months from today as directed above, it would be open to the Management of the Schools and such other Authorities as are competent, to take disciplinary action against the petitioners to proceed in accordance with law and subject to the observations made in this order, on the basis that the petitioners had failed to produce the order from the Karnataka Secondary Education Examination Board as directed in this order. Each of the petitioners shall intimate the concerned Management and the Authorities and produce a copy of the application with an endorsement from the Karnataka Secondary Education Examination Board that he/she has approached the the Karnataka Secondary Education Examination Board within two months from today.

- (iv) As the petitioners have been continuing in service, pursuant to interim orders, and as the orders dismissing them from service or suspending them have been quashed, the petitioners are entitled to continue until they are removed or dismissed from service in accordance with law. Consequently, it follows that they are also entitled to the pay and emoluments according to law and the Rules Governing their services. . . ."

2. It is the specific assertion of the petitioner that she had complied with the directions given in the order and sent application within two months. However, communication dated 3.9.1996 has been sent to the Management of the school directing that the petitioner should be terminated from service. Such

communication is being challenged in the present writ petition mainly on the ground that the directions given by the Division Bench have not been complied with. It is further indicated that without following the procedure given in Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules framed thereunder, the petitioner cannot be terminated.

3. In the other writ petitions, similar averments have been made.

4. No counter appears to have been filed on behalf of any of the respondents in W.P. No. 13263 of 1996. In other writ petitions, counter affidavit has been filed on behalf of the respondent No. 3, Management of the School concerned, but, no counter affidavit has been filed on behalf of the respondents 1, 2 and 5. Similarly no counter affidavit has been filed on behalf of the Karnataka Secondary Education Examination Board the respondent No. 4 in any of the writ petition.

5. The basic allegation seems to be that on the basis of some communications between the the Karnataka Secondary Education Examination Board and the respondents 1, 2 & 5, the present impugned communication has been made. It has been submitted that the specific direction given by this Court that opportunity of hearing should be given to the petitioner by the Karnataka Secondary Education Examination Board has not been complied with. Similarly after receiving such communication from the respondents, the respondents 1, 2 & 5 do not appear to have given any further opportunity to the petitioner. In other words, it is the specific case of the petitioners in all the cases that without following the directions given by the Division Bench on earlier occasion, the orders have been passed.

6. It is contended by the learned counsel for the petitioners that in the absence of any specific denial either by the respondents 1, 2 & 5 or the respondent No. 4, the assertion to the effect that no further opportunity has been given by the respondent No. 4 should be accepted. It is also contended that in the counter affidavit filed by the respondent No. 3 it is stated that no further opportunity had been given by the respondent No. 4 or the respondents 1, 2 & 5. However, since respondent No. 4 has not appeared in the present stage of record, it is difficult to hold conclusively that no opportunity had been given by the respondent No. 4 and the communication sent by it was void.

7. However, the fact remains that some communications have been received from the respondent No. 4 raising some doubt regarding genuineness of the certificate produced by the petitioners. Such communications cannot be simply wished away nor it can be utilised at the present stage as a conclusive piece of material to take away the services of the petitioners. It is not disputed by respondents 1, 2 and 5 who have appeared through counsel that no further opportunity has been afforded to any of the petitioners to explain about such communications.

8. In the facts and circumstances of the case and in the interest of justice, it is directed that if the authorities intend to act upon such communication, they shall

furnish a copy of the communication to the concerned teacher and thereafter they should give six months time from the date of service of such communication to the concerned teacher to obtain any clarification from the Karnataka Secondary Education Examination Board regarding genuineness of the certificate. If the concerned teacher fails to obtain such clarification from the Karnataka Secondary Education Examination Board, it would be open to the concerned authorities to take further action as deemed fit and proper in accordance with law by giving opportunity of hearing.

9. Prima facie such a direction may appear to be contrary to the directions given on the earlier occasion. But, I deem it just and proper to give such a direction because , the sanctity of educational institution has to be maintained and once there is any bonafide doubt regarding genuineness of a particular certificate, it is for the beneficiary of such suspected certificate to clear the air and clarify the doubts. Since the petitioners have got the certificate from the Karnataka Secondary Education Examination Board, it is their obligation to obtain any clarification wherever necessary. It goes without saying that until further action is taken in accordance with law and as per the directions now given, the petitioners should continue in the post.

10. Subject to the aforesaid directions, the writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.