
(2014) 11 MAD CK 0133

In the Madras High Court

Case No : Writ Petition No. 9065 of 2014 and M.P. No. 1 of 2014

R. Devadoss

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 21-11-2014

Acts Referred:

Citation : (2014) 11 MAD CK 0133

Hon'ble Judges : M.M. Sundresh, J

Bench : Single Bench

Judgement

M.M. Sundresh, J.—The petitioner was appointed in the fifth respondent school as Junior Assistant with effect from 16.07.2013 in pursuant to the superannuation of one D.John Dhayanith Santhakuma in the year 2013. In pursuant to the appointment so made, the fifth respondent sent a proposal pertaining to the petitioner for approval. The approval was rejected by the order impugned on the ground that prior approval has not been obtained. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the issue involved in the present writ petition is no longer res integra as it has been held in W.A.No. 908 of 2013 dated 25.08.2013 that prior approval is not required for the minority school. Challenging the judgment made in W.A.No. 908 of 2013, S.L.P.No. CC4030 of 2014 was filed before the Supreme Court, which was also dismissed. The learned counsel further submitted that the Government Orders relied upon by the respondents in G.O.Ms.No. 115 School Education (D2) Department dated 30.05.2007 and G.O.Ms.No. 203 School Education (D1) Department dated 23.07.2010 do not have any application to the case of the petitioner as the petitioner was appointed in a sanctioned post by the fifth respondent, which is a minority institution.

3. Per contra, the learned Government Advocate appearing for the respondents submitted that inasmuch as the petitioner was appointed contrary to the Government Orders and prior approval has not been obtained, the writ petition

will have to be dismissed.

4. As rightly submitted by the learned counsel appearing for the petitioner, the petitioner was appointed in a sanctioned post. Considering the issue of prior approval, the Division Bench of this Court in W.A.No. 908 of 2013 held as follows:

4. Rule 15(4) of the Tamil Nadu Private Schools Regulation Act 1973 (hereinafter referred to as the Act) states that the School Committee shall get permission from the competent authority to fill up vacant posts. Section 15 of the said Act contemplates the constitution of School Committee in private schools. The said section is not applicable to minority schools. The said fact is reiterated in the decision in T.Sanjeeva Rao Vs. The Director of School Education and another reported in 2012 WLR 463 which was rendered following the Judgment of Division Bench made in W.A.Nos. 1159 and 1160 of 2006 dated 12.01.2010 etc., (Madras Christian College Higher Secondary School V. N.Ganapathi and others). The appellants are not disputing the fact about the minority character of the respondent school. Minority status was granted by the Government in G.O.Ms.No. 1089, Education Department dated 06.11.1992. The respondent appointed the Junior Assistant in a sanctioned post and the post is still available in the school and the appointment was also approved by order dated 02.03.2011 which was subsequently cancelled on 29.02.2012.

5. In the light of the above said legal position, there is no error in the appointment made by the management and the impugned order of the Department was rightly quashed by the learned Single Judge. Hence, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

The said decision of the Division Bench was also followed subsequently in W.P.No. 2020 of 2014 dated 31.01.2014.

5. Considering the above, this Court is of the view that the order impugned is liable to be set aside as no prior approval is required while appointing a person to a post which is sanctioned for the Minority Aided Institution. Accordingly, the order impugned is set aside and the writ petition is allowed. Consequently, the fifth respondent is directed to re-submit the papers pertaining to the petitioner's appointment for approval within a period of four weeks from the date of receipt of a copy of this order. As and when such papers are re-presented, the fourth respondent is directed to pass appropriate orders on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.