

(2000) 09 MAD CK 0058

In the Madras High Court

Case No : Writ Petition No's. 9915/96 and 8843/97

S. Geetharamani

APPELLANT

Vs

District Elementary Educational Officer, The Assistant
Elementary Educational Officer and The Secretary V.K. V.
Salamiddle School and Ors

RESPONDENT

Date of Decision : 22-09-2000

Acts Referred:

Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 — Rule 15(6)

Citation : (2000) 09 MAD CK 0058

Hon'ble Judges : E. Padmanabhan, J

Bench : Single Bench

Advocate : Ehirajulu, for the Appellant; N. Subramani, Government Advocate for
R1 and R2 and K. Ramu, for R3 and R4, for the Respondent

Final Decision : Allowed

Judgement

E. Padmanabhan, J.—W.P. No. 9915 of 1996 has been filed by S. Geetharamani, who is already employed in the 3rd Respondent V.K.V. Salai Middle-School, as a Secondary Grade Teacher.

2. In this Writ Petition, she had challenged the proceedings of the 3rd Respondent, namely Secretary, V.K.V. Salai Middle School in appointment Order Na. Ka No. 3/96 dated 23.6.1996 and quash the same and direct the Respondents to consider the Petitioner for appointment as Headmaster of Middle School in the said 3rd Respondent School.

3. W.P. No. 8843 of 1997 has been filed by R. Jeeva, a Secondary grade teacher in the said V.K.V. Salai Middle School praying for the issue of writ of certiorarified mandamus calling for the records in relation to M.M-3/96 dated 23.6.1996 of the 5th Respondent namely, the Secretary, V.K.V. Salai Middle School and quash the same and issue directions to the said school to promote the Petitioner as Middle School, Headmaster.

4. Heard Mr. G. Ethirajulu Learned Counsel appearing for the Petitioner in W.P. No. 9915 of 1996 and Mr. N. Subramani Government Advocate appearing for the Respondents 1 and 2 in W.P. No. 1916 of 1996, Mr. Ramu appearing for the Respondents 3 and 4 in W.P. No. 9916 of 1996. None appears for the Petitioner in W.P. No. 8843 of 1997, Mr. N. Subramani appearing for the Respondents 1 to 4 Mr. Ramu appearing for the Respondent Nos. 5 and 6 Mr. Ethirajulu appearing for the Respondent No. 7.

5. By the impugned proceedings, the Secretary, V.K.V. Salai Middle School (3rd Respondent in W.P. No. 9916 of 1996) who is also Respondent No. 5 in W.P. No. 8843 of 1997 appointed one Subanandhan as the Head Master and the same is being challenged in both the writ petitions and certain consequential directions are also prayed for.

6. The said appointment of Subanandhan has not been approved by the competent authority so far and the proposal submitted has not been disposed of so far. Even according to Mr. Ramu, the counsel appearing for the school and the said appointees, the appointee is not possessed of the qualifications prescribed for being appointed as the Headmaster of the school in terms of Annexure V. read with Rule 15(6) of Tamil Nadu Private Schools (Regulations) Rules 1974. It is also admitted at the Bar in the present writ petitions that Entry I-A Headmaster (Elementary and Middle School) found in Annexure V. had not been amended so far. However it is pointed out that certain Government Orders have been issued, which would enable certain Tamil Pandits and other B.T Assistants to be considered and appointed as Head Master. But so far, the statutory rule had not been amended and this is admitted. So long as the statutory rule stands, the Respondents are bound to enforce the statutory rule. The statutory provisions of the Tamil Nadu Private Schools Regulation Act and the rules made there under will govern the appointment of Headmaster in the said school.

7. He is already pointed out Mr. Ramu, Learned Counsel for the school management, who is also counsel for the appointee, fairly admits that the appointee has no previous experience at all as a secondary grade teacher, even though the appointee possesses B.A degree as well as B. Ed., qualifications. It is pointed out and rightly too that the appointee is not possessed of teaching experience as a secondary grade teacher though the appointee may possess higher educational qualifications. The illegality in appointment is admitted as ex facie it is contrary to Rules.

8. Normally this Court will not interfere with the order and would have directed the authority to consider the issue at the time of approval. But the order is ex facie illegal and the school management, despite the earlier orders passed and directions issued by the District Educational Officer has persisted in ignoring and refusing to promote the Petitioner in W.P. No. 9916 of 1996. Hence this Court has to necessarily interfere and the following order is passed.

9. The appointment of the 4th Respondent is subject to the approval according to

the provisions of the Tamil Nadu Private Schools (Regulations) Act and the Rules made there under. Co-incidentally when the appointee is not qualified at all and when the school is receiving full grant and it is amenable to writ jurisdiction of this Court, this Court has no other alternative except to quash the order of appointment passed by the Secretary or Management of the V.K.V. Salai Middle School. Accordingly the impugned order of the Secretary or Management of V.K.V. Middle School appointing an unqualified teacher as Headmaster when eligible teacher is available in the school is quashed. However, this Court is not inclined, to issue consequential directions as prayed at this stage as it is well open to the Petitioners in both the writ petitions to stake their claims when the school management fills up the post of Headmaster by promotion.

10. The claims of Petitioners shall be considered on merits and according to statutory provisions. It is too puerile to contend that the Petitioner Geetharamani had relinquished promotion much less once and for all nor she is estopped from seeking promotion. The background and context in which a letter or bond had been extracted by the school management speak for themselves and such relinquishment is invalid and inoperative and cannot be put against her and it is illegal and unfair to deny her promotion, if she is otherwise qualified and senior.

11. In the result, both the writ petitions are allowed to the limited extent by quashing the proceedings of the management of V.K.V. Salai Middle School in appointing S. Subanandhan as the Headmaster of the said school by proceedings dated 23.6.1996 and the school management is directed to fill up the post of Headmaster by promotion and according to Rules within three months.