

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/06/2004

CORAM

THE HONOURABLE MR. JUSTICE A.K. RAJAN

W.P.No. 15283 of 1997

M.Seela .. Petitioner

-vs-

1. The District Elementary Educational Officer,
Tirunelveli at Palayamkottai.

2. The Additional Asst. Elementary Educational Officer
Alangulam
Tirunelveli District.

3. Sri Shanmuga Middle School
rep by its Secretary
Melamaruthappapuram
(via) Uthumalai
Tirunelveli District. .. Respondents

!For Petitioner .. Mr. S.Elamurugan

^For R1 & R2 .. Mr. T.Sredharan, G.A.

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus as stated therein.

:O R D E R

The writ petitioner was appointed as Teacher by the third respondent on 23.6.1995. That appointment was approved by the first respondent by Order dated 9.2.1996. Thereafter, by Order dated 3.9.1997, the approval was cancelled by the third respondent. Challenging that, the present writ petition has been filed.

2. The learned counsel for the petitioner submits that once appointment has been approved, it cannot be cancelled on the ground that the candidate was not sponsored through employment exchange. Having approved that appointment, subsequently, it cannot be cancelled even without giving a

notice.

3. The learned Government Advocate appearing for respondents 1 and 2 submits that since the petitioner was not sponsored by employment exchange, her appointment becomes irregular and it cannot be approved.

4. The appointment of a person not sponsored through the employment exchange, would not be illegal; it is only irregular. Such irregularity will not continue once such appointment is approved by the appropriate authority. That is, the irregularity had been cured or the appointment had been regularised by the competent authority when it was approved.

5. In this case, the competent authority to approve the appointment is the first respondent. Admittedly, the competent authority has approved the petitioner's appointment. Any defect in irregular appointment is cured when the appointment is approved or regularised. Therefore, the cancellation of the order of approval, by Order dated 3.9.1 997 is not legally sustainable. Further, the approval was cancelled without notice to the petitioner. Therefore, on the ground of violation of the principle of natural justice, "audi alteram partem" the impugned order is bad in law. Hence, the impugned Order is set aside. The writ petition is allowed. No costs.

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To

1. The District Elementary Educational Officer,
Tirunelveli at Palayamkottai.

2. The Additional Asst. Elementary Educational Officer
Alangulam, Tirunelveli District.

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