IN THE HIGH COURT OF JUDICATURE AT MADRAS

(CONTEMPT JURISDICTION)

TUESDAY, THE 30TH DAY OF SEPTEMBER, 2008

THE HON'BLE MR.JUSTICE P.R.SHIVAKUMAR

CONTEMPT PETITION No.923 of 2008

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1.K.Ganesan,
Secondary Grade Assistant,
Panchayat Union Elementary School,
Kothoor, Nochili,
Pallipattu Union.
Tiruvallur District.

2.A.Kumar,
Secondary Grade Assistant,
Panchayat Union Elementary School,
Kodivalasa,
Pallipattu Union,
Tiruvallur District.

3.N.Babu,
Secondaray Grade Assistant,
Panchayat Union Elementary School,
Pallipattu Union,
Tiruvallur District.

4.M.R.Geetha,
Secondary Grade Assistant,
Panchayat Union Elementary School,
Pallipattu Union,
Tiruvallur District.

5.N.M.Jaichandiran,
Secondary Grade Assistant,
Panchayat Union Elementary School,
Kothakuppam,
Pallipattu Union,
Tiruvallur District. ... Petitioners

Vs

1.K.Devarajan, M.A..Ed.,
Director of Elementary Education,
chennai - 600 006.

2.K.P.Srinivasan, M.A.,M.Ed.,
District Elementary Educational Officer,
Tiruvallur. ... Respondents

Contempt Petition praying that this Court be pleased to punish the respondents for not compling the order of this Hon'ble Court dated 01/09/2008 and made in W.P.No.12605 of 2008 in M.P.No.2 of 2008.

The above Contempt Petition coming on this day before this Court for hearing in the presence of Mr.S.N.Ravichandran, Advocate for the petitioner herein; and upon reading the petition and affidavit of N.Babu, filed herein; the Court made the following order:-

Heard the learned counsel for the petitioners.

2.The petitioners 1 to 5 herein were the respondents 5,6,8,9,10 in M.P.No.2 of 2008 in W.P.No.12605 of 2008. R.A.Amsa, J.Bhavani, D.Dhatchayani and A.Angammal were the petitioners in the said miscellaneous petition and the writ petition. They had filed the said writ petition for the issue of a writ of mandamus directing the respondents herein, who figured as respondents 1 and 2 in the said writ petition and the Assistant Elementary Educational Officer, Pallipattu and the Government of Tamilnadu represented by Secretary to Government, Education Department, who figured as the third and fourth respondents therein, to desist from considering the petitioners herein and one N.Krishan Mandadi, who figured respondents 5 to 10 in the writ petition for promotion as

Elementary School Headmasters in Tamil medium schools in Pallipattu Union and to promote the writ petitioners in the order of their seniority among the qualified Tamil Secondary Grade Assistants as Elementary School Headmasters in the said Union.

3.This Court, while ordering notice of motion on 20.05.2008 in the said writ petition, directed that the promotion of the petitioners herein and one N.Krishan Mandadi as Elementary School Headmasters shall be subject to the result of the writ petition. Subsequently, after appearance of the respondents on 01.09.2008, this Court made the following order:

> "The learned counsel appearing for the petitioners would submit that the petitioners alone are eligible to be promoted and the learned Special Government Pleader also supports the case of the petitioners. However, it is the case of the respondents 5 to 10 that the interim order granted by this Court is misconstrued by the Department and they are denying promotion to the respondents 5 to 10. The interim order is clarified, though not necessarily to be clarified, to the following effect. The interim order does not preclude the authorities from promoting the respondents 5 t0 10 as Elementary School Head Masters, if they are eligible. It is subject tot he result of the writ petition."

4.Contending that though the earlier order dated 20.05.2008 was clarified stating that the interim order would not preclude the authorities from promoting the respondents 5

to 10 therein as Elementary School Head Masters if they were eligible, the respondents herein have not chosen to promote the petitioners and that the said act of omission on the part of the respondents would amount to contempt of the above said order of this Court, the petitioners have come forward with the present contempt petition stating that the respondents should be punished for the said alleged act of contempt.

5.After hearing the submissions made by the learned counsel for the petitioners and upon perusing the orders dated 20.05.2008 and 01.09.2008, this Court is not in a position to accept the contention of the learned counsel appearing for the petitioners that the omission on the part of the respondents to promote the petitioners herein as Elementary School Headmasters will amount to contempt of Court. As the writ petitioners had prayed for an order directing the respondents 1 to 4 in the writ petition not to promote the petitioners herein and another person before ever the writ petitioners could be promoted as the Headmasters of Elementary Schools, this Court simply directed by its earlier order dated 20.05.2008 that any promotion to be made to the petitioners herein and another person who figured as respondents 5 to 10 in the writ petition shall be subject to the result of the writ petition. By order dated 01.09.2008, the said order was clarified to the effect that the above said interim order would not preclude the authorities from promoting the petitioners herein and another person if they were found

otherwise eligible. It must be seen that no positive direction has been issued in favour of the petitioners herein that they should be promoted as Headmasters of the Elementary Schools. On the other hand, the power available to the authorities to promote them has been reiterated by the order. Recognition or declaration of such power available to the authorities should not be interpreted to mean a direction to the authorities to exercise that power in favour of the petitioners herein.

6.Therefore, this Court is of the considered view that no case of contempt has been made out. Hence, contempt petition deserves to be dismissed at the stage of admission even without notice to the opposite party. Accordingly, the contempt petition is dismissed.

Witness the Hon'ble Thiru ASOK KUMAR GANGULY, the Chief Justice of High Court at Madras, as aforesaid, this the 30th day of September, 2008.

Sd/-
DEPUTY REGISTRAR (OS)

//Certified to be true copy//

Dated at Madras this the day of 2008.

COURT OFFICER(O.S.)

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Cns. CONTEMPT PETITION No.923/2008

THE HON'BLE MR.JUSTICE
P.R.SHIVAKUMAR

ORDER
DATED : 30/09/2008

FOR APPROVAL :18/12/2008
APPROVED ON :18/12/2008