

Misc(J) 10/13 IN T.S 13/2013

22.06.13 :

This order arises out of a petition, being No. 352/13, filed U/O 39 Rule 1 & 2 of C.P.C. Petitioner's case in brief is that he has instituted the Title Suit for declaration and injunction. It is stated that Petitioner is the founder teacher of Komargaon M.E. School and has been discharging his duties with sincerity and devotion since January, 1986 till date. That the said school was established on the basis of a resolution adopted in a General Meeting held in the last part of year 1985. In the said Meeting a Governing body for management and establishment of the school was formed with few members selected from the general meeting. The constituent governing body made the foundation of the school and selected five Numbers of teachers including the petitioner and the Head Master/O.P no 3. Government also provided financial assistance to the school and the school was recognised by the authority concerned. That the education authority i.e. the Director of Elementary Education and District Elementary Education Officer approved 4 numbers of teachers for the School and asked for proper list of the founder teacher of the school. Accordingly, the Head Master of the school at his own discretion, without any discussion with the Governing body, prepared a list himself by omitting the name of Plaintiff/Petitioner. That after the matter has come to the knowledge of the petitioner, he presented an objection before the District Elementary Education Officer, Jorhat, for consideration of his name as a founder teacher but O.P. No.2 did not give any heed. That in the meantime, District Elementary Education Officer forwarded the list of teachers to the Director of Elementary Education, Kahilipara, Guwahati.

The O.P. filed Written Objection wherein it has been submitted that school concerned is purely a private institution and its affairs and management are controlled by Managing Committee constituted with the President, Secretary and other members. It is further stated that petitioner was appointed on temporary and honorarium basis and he is still continuing his service as temporary teacher. It is also submitted that as per Government Guidelines and for the purpose of permission, recognition and financial assistance, a Science teacher is required to be appointed by the school and as such as per direction of the Managing Committee, a Science teacher has been appointed in place of the petitioner/plaintiff in the 4th post whereas the petitioner/plaintiff has been placed in the 6th post of teacher.

Perused the Plaint, Written Statement, Petition, Written Objection as well as available materials on record. Careful perusal of the pleadings of the parties as well as materials available on record prima-facie reveals that plaintiff was appointed as Asstt. Teacher in the school by the Secretary, Managing Committee and he was at 4th position as per seniority list. It further reveals that while forwarding the name of teachers for getting the posts sanction, plaintiff/petitioner's name was sent at Serial No.6 instead of his original position i.e. 4th position. Moreover, in spite of his objection/complaint filed before the District Elementary Education Officer, the list was already sent to the Director of Elementary Education, Kahilipara, Guwahati, Assam and as such I am of the considered opinion that plaintiff is having a prima-facie case to go for trial.

So far as balance of convenience is concerned, plaintiff being position at 4th in the seniority list has legal right for forwarding his name as per his seniority and in the event of approval of the list as forwarded by the Head Master wherein petitioner was placed at 6th position, his seniority would be certainly effected which would obviously place him in more inconvenient stage than that of the O.Ps.

In the event of sanctioning of 4 or 5 posts as per the list forwarded, plaintiff would be deprived from getting the benefit of his long continuous service rendered to the institution at the cost of a considerable/ valuable period of his life which would cause irreparable loss and injury to him which cannot be compensated in terms of money.

In view of the above position, I deem it fit and proper to issue temporary injunction to protect the right of the plaintiff and accordingly, temporary injunction is issued restraining the O.Ps. from issuing Appointment letters to the teachers of the Komargaon M.E. School as per the list prepared by the Head Master till disposal of the suit.

Misc. (J) case is accordingly disposed off on contest.

Mrs Achma Rahman.
Munsiff No 1, Jorhat.