

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.34027 of 2015
and
M.P.No.1 of 2015

A.Mariya Sinthana

... Petitioner

Vs

1. The Government of Tamil Nadu
Rep. By the Additional Chief
Secretary
Department of School Education
Fort St. George, Madras 600 009
2. The Director of School Education
DPI Campus
College Road, Chennai 600 006
3. The Chief Educational Officer
The Office of the Chief Educational
Officer
Coimbatore, Coimbatore District
4. The District Educational Officer
The Office of the District Educational
Officer
Coimbatore 641 018
5. The Correspondent
Rosary Girls High School
Suthanithrapuram
Mettupalayam 641 301
Coimbatore District

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to accord approval to the petitioner Mrs.A.Mariya Sinthana, working as B.T. Assistant (English) in the fifth respondent, Rosary Girls High School, Suthanthirapuram, Mettupalayam 641301 from the date of her appointment i.e., with effect from 24.6.2015, regularizing her services with all consequential service and monetary benefits.

For Petitioner : Dr.Fr.A.Xavier Arul Raj
For Respondents : Mr.R.Vijayakumar
Additional Government Pleader
for RR1 to 4

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner would state that she is holding Degrees of B.A. (English) and B.Ed. and was appointed as B.T. Assistant (English) in the fifth respondent-School, with effect from 24.6.2015, in the sanctioned and regular post and the said School is also an aided institution and would further state that she was appointed in the vacancy that arose out of the retirement of one Tmt.S.Stella Mary on 31.5.2015, and ever since the date of her appointment till date, the petitioner is working in the said School continuously and without any break and is also affixing her signature regularly in the Master Attendance Register with effect from 24.6.2015 onwards.

3.It is further stated by the petitioner that the fifth respondent is an aided minority institution and is established and administered by the Catholic Religious Congregation of "The Congregation of the Franciscan Sisters of the Presentation of the Blessed Virgin Mary, Coimbatore" and it is also a registered Society having Registration No.86 of 1972, and the said Society is also administering a number of educational institutions, which are governed under Article 30(1) of the Constitution of India.

4.The petitioner would further aver that in the fifth respondent-School, as per staff fixation, there have been six sanctioned posts, out of which, three posts are B.T. Assistant and another three are Secondary Grade posts and consequent upon the retirement of Tmt.S.Stella Mary on 31.5.2015, the petitioner has been appointed in the regular sanctioned vacancy and she has also passed the Teacher Eligibility Test conducted during August, 2013, under Roll No.13TE25200685 and secured 88 marks and was declared "pass" by the Teachers' Recruitment Board.

5.The grievance expressed by the petitioner, is that though a proposal has been forwarded by the fifth respondent on 22.7.2015, so far, no orders have been passed and hence, she came forward to file this writ petition.

6.Dr.Father A.Xavier Arul Raj, learned Counsel appearing for the petitioner, would submit that admittedly, the petitioner has been accommodated in the sanctioned post and she is having all the requisite and necessary qualifications to act as B.T. Assistant (English) and hence, there is no impediment on the part of the official respondents to give approval for her appointment and has also drawn the attention of this Court to the order dated 21.8.2015, made in W.P.Nos.26174 to 26176/2015, and prays for appropriate orders.

7.The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader, who accepted notice on behalf of the respondents 1 to 4, also. He would submit that the proposal is still pending consideration with the fourth respondent.

8.This Court has carefully considered the rival submissions and also perused the materials placed before it.

9.This Court, in the above said common order dated 21.8.2015, made in W.P.Nos.26174 to 26176/2015, has taken note of various judgments of this Court including the one reported (2012) 4 MLJ 198 (S.RASHEETHA BANU V. STATE OF TAMIL NADU), wherein, this Court has laid down a proposition that if a person is appointed in the sanctioned post, the approval of his/her appointment cannot be rejected.

10.In the light of the factual aspect and the legal position, the writ petition is disposed of and the fourth respondent is directed to consider the proposal dated 22.7.2015, sent by the fifth respondent, on merits and in accordance with law, in the light of the above said common order dated 21.8.2015, made in W.P.Nos.26174 to 26176 of 2015, and pass orders thereon within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the fifth respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nsv

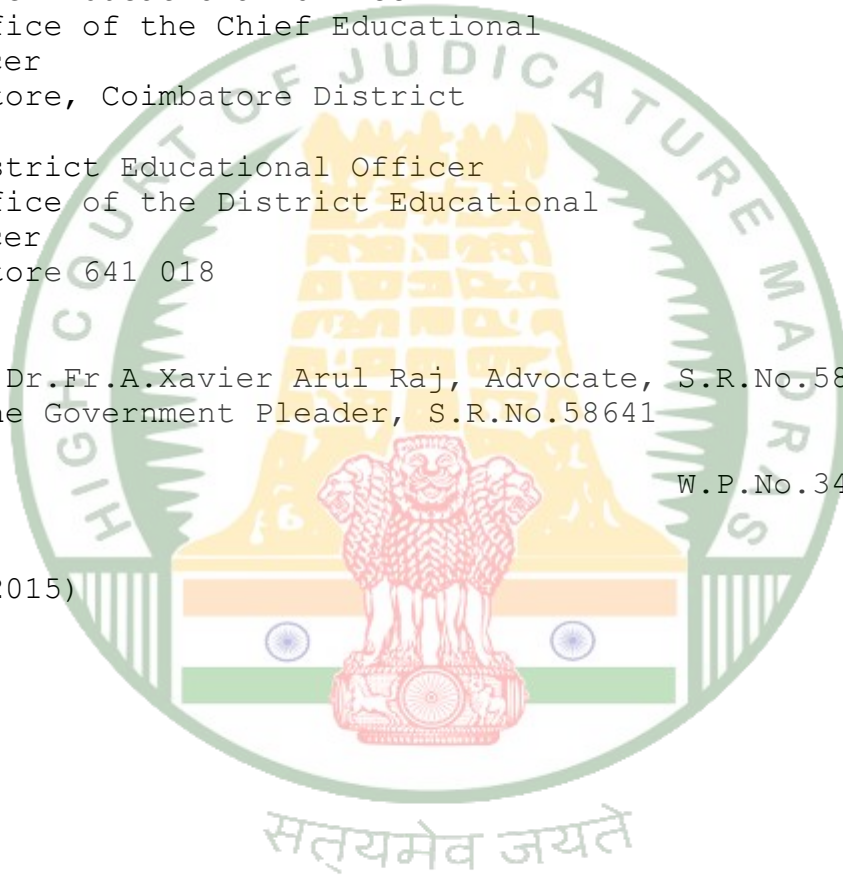
To:

1. The Additional Chief Secretary
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+2cc's to Dr.Fr.A.Xavier Arul Raj, Advocate, S.R.No.58861
+1cc to the Government Pleader, S.R.No.58641

W.P.No.34027 of 2015

KSJ(CO)
CA(05/11/2015)



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