



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.6708 of 2014

and

M.P. (MD) .Nos.1 & 2 of 2014

A.Regu Anantharaj

... Petitioner

Vs.

1. The Director of School Education,
Chennai 600 006.

2. The Chief Education Officer,
Tirunelveli.

3. The District Education Officer,
Cheranmahadevi,
Tirunelveli District.

4. The Correspondent,
Concordia Higher Secondary School,
Valliyoor,
Tirunelveli District.

5. The Headmaster,
Concordia Higher Secondary School,
Valliyoor,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to O.Mu.No.4653/Aa1/2013 dated 28.12.2013 on the file of the District Education Officer, Cheranmahadevi, Tirunelveli District and quash the same and consequently, direct the respondents to approve the appointment of the petitioner B.T. Assistant (Tamil Pandit) in Concordia Higher Secondary School, Valliyoor with effect from 23.02.2011, the date of appointment by the Correspondent of the same school, with all incidental benefits.

For Petitioner

: Mr.K.Sreekumaran Nair

For R1 to R3

: Mr.V.R.Shanmuganathan

Special Govt. Pleader

For R4 & R5

: No appearance.

**O R D E R**

When the matter is taken up for hearing, both the parties fairly submitted that although the issue involved in the Writ Petition was already decided by the Apex Court, the main issue is still pending. By saying so, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the official respondents produced an order passed by the Division Bench of this Court made in W.A.(MD).No.220 of 2016 dated 05.02.2016. Following the order of the Division Bench made in W.A.(MD).No.220 of 2016 dated 05.02.2016, this Court has disposed of the Writ Petition in W.P.(MD).No.17878 of 2015 dated 05.07.2016.

2. At this juncture, it is necessary to extract paragraphs 4 to 8 of the order passed by the Hon'ble Division Bench in **W.A.No.1299 of 2015, dated 14.09.2015**, which are given as under:-

*''4.Be that as it may, the issue as to whether the provisions of the Act, will be applicable to a minority institution, is pending consideration in **Aswinithanappan Vs. Director of Education and another - (2014) 8 SCC 272.***

5.In view of the above, without going into the merits of the case as to whether a teacher appointed in a minority school is required to have TET qualification, as the same is the subject matter of the Writ petition, we are of the considered view that interest of justice would sub-serve, if the appointment of the first respondent is protected, without giving any direction to the State Government to grant temporary approval.

6.Mr.D.Krishnakumar, learned Special Government Pleader (Education) appearing for the appellants fairly submits that the first respondent shall not be terminated during the pendency of the said writ petition being W.P.No.14072 of 2015.

7.Accordingly, we direct that the first respondent shall be given her salary in the course of her employment and no steps to remove her from service shall be taken till the disposal of the writ petition. However, it is made clear that this order is subject to the final outcome of the pending writ petition. It is further made clear that the first respondent shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties, therein.

8.This intra-Court appeal is disposed of accordingly. No costs. Connected Miscellaneous Petition is closed."

<https://hcservices.ecourts.gov.in/hcservices/> In view of the above, the impugned order dated 28.12.2013 passed by the third respondent is quashed. However,



the official respondents are directed to grant salary in the course of his employment within a period of two weeks from the date of receipt of a copy of this order and no steps to remove him from service shall be taken. However, it is made clear that the order is subject to the final outcome of the case pending before the Supreme Court in Aswini Thanappan Vs. Director of Education and another - (2014) 8 SCC 272. It is further made clear that the petitioner shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(T&P)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Director of School Education,
Chennai 600 006.
2. The Chief Education Officer,
Tirunelveli.
3. The District Education Officer,
Cheranmahadevi,
Tirunelveli District.

+1c to Mr.K.Sreekumaran Nair, Advocate SR.No.42486

W.P.(MD) No.6708 of 2014
05.08.2016

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