



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2016

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CORAM:

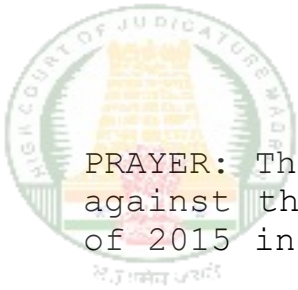
THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR. JUSTICE C.T.SELVAM

W.A. (MD) No.404 of 2016
and
CMP. (MD) No.2808 of 2016
IN
MP (MD) 2/2015 in WP (MD) No.22377 of 2015

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George, Chennai -9.
- 2.The Director of School Education,
College Road, Chennai - 6.
- 3.The Chief Education Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Cheranmahadevi - 627 414,
Tirunelveli District. .. Appellants 1 to 4/Respondents
1 to 4/Respondents 1 to 4

Vs.

- 1.V.Athisaya Remi Bai
B.T.Assistant in Mathematics,
St. Aloysius Higher Secondary School,
T.Kallikulam - 627 113,
Tirunelveli District. .. 1st Respondent/Petitioner/
Writ Petitioner
- 2.The Correspondent,
St.Aloysius Hr.Sec. School,
T.Kallikulam - 627 113,
Tirunelveli District. .. 2nd Respondent/5th Respondent/
5th Respondent



PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent against the order of this Court, dated 14.12.2015 in M.P.(MD)No.2 of 2015 in W.P.(MD)No.22377 of 2015.

Prayer in MP(MD). 2/ 2015 in WP(MD).22377/2015 :

To grant an order of Ad Interim Orders directing the 4th respondent District Educational Officer to provisionally approve forthwith the appointment of the petitioner as BT Assistant in Maths in the 5th respondent school w.e.f the date of petitioners appointment on 17.08.2011 with all attendant benefits, pending disposal of the Writ Petition.

Prayer in WP(MD). 22377/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent District Educational Officer in O.Mu.No.5168/A2/2012 dated 17.12.2012 and the consequential proceedings in O.Mu.o.4010/A2/2013 dated 30.11.2013, quash the same and further direct the 4th respondent District Educational Officer to approve forthwith the appointment of the petitioner as BT Assistant in Maths in 5th respondent school namely st.Aloysius Higher Secondary School -T.Kallikulam w.e.f the date of Petitioner's appointment on 17.08.2011 with all attendant benefits including the arears of salary and allowance.

For Appellants : Mr.VR.Shanmuganathan
Special Government Pleader

For R1 : Mr.Issac Mohanlal

JUDGMENT

(Judgment of this Court was delivered by S.MANIKUMAR, J.)

In the present writ appeal, the challenge made is to the order passed by the writ Court, directing the appellants to grant temporary approval, and to pay salary to the 1st respondent/writ petitioner, from the date of her appointment, till the date of disposal of the writ petition.

2.The issue involved in the writ appeal is similar. Learned counsel appearing for the parties in the appeal, have consented that, they are agreeable that the order passed in W.A.(MD) No.220/2016 dated 05.02.2016, be passed in the present appeal ~~ad hoc, deo and deo~~ of which are given below. Thus, by consent, the present appeal is taken up and disposed of.



3. On an earlier occasion, a similar Writ Appeal (MD) No.220 of 2016, filed by the State, has been considered and disposed of on 05.02.2016 by a Hon'ble Division Bench of this Court, to which, one of us (**SMKJ**) is a party.

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4. Mr. Issac Mohanlal, learned counsel appearing for the 1st respondent/Writ Petitioner has consented for a similar order to be passed.

5. In as much the above learned counsel for the 1st respondent/writ petitioner has consented for a similar order as made in W.A.(MD) No.220 of 2016, dated 05.02.2016, this Court deem it fit to extract the same and dispose of the Writ Appeal on the same lines:

"4. In a similar writ appeal filed by the State in the Principal Bench, a Division Bench of this Court has passed the following order in W.A.No.1299 of 2015, dated 14.09.2015.

'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 justice would subserve, 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. "



6.By consent, Writ Appeal is disposed of on the same lines as ordered in W.A.(MD) No.220 of 2016 dated 05.02.2016. Having consented, appellant is directed to comply with the orders. No costs. Consequently, connected Miscellaneous Petitions is closed.

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Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

rj2

To

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai -9.
- 2.The Director of School Education,
College Road, Chennai - 6.
- 3.The Chief Education Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Cheranmahadevi - 627 414,
Tirunelveli District.

+1CC to Spl.Government Pleader Sr.No.16091
+1CC to Mr.Isaac Mohanlal Advocate Sr.No.15953

GJM/AAL/MPA/4.4.16-4p-7C

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