



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2016

WEB COPY

CORAM:

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

W.A.(MD).No.493 of 2016 &
CMP(MD).No.3503 of 2016

- 1.The State of Tamil Nadu,
Rep. by the Secretary,
Department of School Education,
Fort St. George, Chennai 600 009.
- 2.The Director of School Education,
College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Nagercoil, Kanyakumari District 629 001.
- 4.The District Educational Officer,
Thucklay,
Kanyakumari District.
..Appellants/Respondents 1 to 4/Respondents 1to 4

versus

- 1.L.Hema,
Secondary Grade Teacher
Little Flower High School,
Manakudy 629 602,
Kanyakumari District.
...1st Respondent/Petitioner/Writ Petitioner
- 2.The Correspondent,
Little Flower High School,
Manakudy 629 602,
Kanyakumari District .. 2ndRespondent/5threspondent/5th respondent

Appeal filed under Clause 15 of Letters Patent against the order, dated 05.01.2016, made in WMP(MD).No.40 of 2016 in W.P.(MD).No.32 of 2016.



Prayer in WMP(MD). 40/ 2016 :

To grant an order of Ad INTERIM ORDERS directing the fourth respondent to provisionally approve forthwith the appointment of the petitioner as Secondary Grade Teacher in the fifth respondent school w.e.f. the date of petitioner's appointment on 01.06.2012 with all attendant benefits, pending disposal of the Writ Petition.

Prayer in WP(MD). 32/ 2016 :

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 Na.Ka.no.5069/A2/2015 dated 25.09.2015 QUASH THE SAME and further DIRECT the 4th respondent District Educational Officer to approve forthwith the appointment of the petitioner as Secondary Grade Teacher in 5th respondent school namely Little Flower High School, Manakudy, w.e.f. the date of petitioners appointment on 01.06.2012 with all attendant benefits including the arrears of salary and allowance.

For Appellants : Mr.VR.Shanmuganathan

For Respondent : Mr.T.Cbi Chakkaravathi for R1

JUDGMENT

(Judgment of the Court was made by **S.MANIKUMAR ,J.**)

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

2. Learned counsel on either side consented that, they are agreeable that an order passed in W.A.(MD) No.220/2016 dated 05.02.2016, be passed in the present appeal also, details of which are given below. Thus by consent, the writ appeal is disposed of by the following judgment.

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 is a party (SMKJ).

4.Mr.T.Cibi Chakkaravarthi, learned counsel for 1st respondent/writ petitioner has consented that he has no objection for an order, similar to the one in W.A.(MD) No.220/16 dated 05.02.2016, be passed in the present appeal filed by the State. His submission is placed on record.



5.In as much the 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, be passed, 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 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. "

6.By consent, the present 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, the appellants are directed to comply with the orders. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

1.The Secretary, State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai 600 009.

2.The Director of School Education,
College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Nagercoil, Kanyakumari District 629 001.

4.The District Educational Officer,
Thucklay,
Kanyakumari District.

+1cc to the Government Pleader Sr.No.19688

+1cc to Mr.T.Cibi Chaakraborty,Advocate Sr.No.19573

jikr

AA/GSV-PM/25.04.2016/4p-7c

W.A. (MD) .No.493 of 2016
06.04.2016