



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2016

CORAM:

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**THE HONOURABLE MR.JUSTICE S.MANIKUMAR**  
**and**  
**THE HONOURABLE MR. JUSTICE S.S.SUNDAR**

W.A. (MD) No.606 of 2016  
and  
CMP (MD) No.4140 of 2016

- 1.The Secretary to School Education,  
St.George Fort, Chennai - 600 009.
- 2.The Director of School Education,  
College Road, Chennai - 600 006.
- 3.The Joint Director,  
(Secondary) Directorate of School Education,  
Chennai - 6.
- 4.The Chief Educational Officer,  
Tiruchirappalli.
- 5.The District Educational Officer,  
Tiruchirappalli. .. Appellants/Respondents 1 to 5/  
Respondents1 to 5

Vs.

- 1.H.Shahul Hameed .. 1st Respondent/Petitioner/  
Writ Petitioner
- 2.The Secretary and Correspondent,  
Khajamain Higher Secondary School,  
Khaja Nagar,  
Tiruchirappalli. .. 2nd Respondent/6th Respondent/  
6th Respondent

PRAYER: Writ Appeal is filed under Clause XV of Letters of Patent, against the common order dated 27.01.2016 made in M.P. (MD) No.1 of 2014 in W.P. (MD) No.11510 of 2014.

Prayer in MP (MD). 1/ 2014 in WP (MD).11510/2014 :

To direct the respondent 4 and 5 to release the salary and arrears, pending disposal of the WP (MD) No.11510/2014.

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of Mandamus to direct the 5th Respondent to approve the appointment of the petitioner made by him in the light of G.O.Ms.no.181 Education Department dated 15.11.2011 from the date of his appointment and consequently direct the Respondents to pay all the consequential service and monetary benefits to the petitioner on the basis of the representation dated 12.06.2014 in accordance with law and pass any orders as this Honble Court may deem fit

For R1 : Mr.N.Shanmugaselvam

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

2.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 also, details of which are given below. Thus, by consent, the present appeal is taken up and disposed of.

4.Mr.N.Shanmugaselvam, learned counsel appearing for the first respondent/petitioner has consented for a similar order to be passed.

"4. In a similar writ appeal filed by the State in the Departmental 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.***

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

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

rj2

To

<https://hcservices.ecourt.gov.in/hcservices/>  
The Secretary to School Education,  
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4.The Chief Educational Officer,  
Tiruchirappalli.

5.The District Educational Officer,  
Tiruchirappalli.

+1CC to Mr.N.Shanmugaselvam Advocate Sr.No.21186

GJM/AN/MP/27.4.16-4p-7c

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