



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2016

CORAM:

WEB COPY

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

W.A. (MD) No. 670 of 2016
and
CMP (MD) No. 4319 of 2016

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort. St. George, Chennai - 9.

2. The Director of Elementary Education,
College Road, Chennai - 6.

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

4. The District Educational Officer,
Kuzhithurai - 629 163,
Kanyakumari District.

.. Appellants/Respondents/
Respondents

Vs.

The Correspondent,
St. Marys M.S.C. High School,
Nattalam 0 629 165,
Kanyakumari District.

.. Respondent/Petitioner/
Writ Petitioner

PRAYER: Writ Appeal is filed under Clause XV of Letters of Patent, against the common order dated 18.12.2015 made in M.P. (MD) No. 2 of 2015 in W.P. (MD) No. 22931 of 2015.

Prayer in MP (MD). 2/ 2015 in WP (MD). 22931/2015 :

To grant an order of AD INTERIM ORDERS directing the 4th respondent District Educational Officer to provisionally approve forthwith the appointment of M. Sheeba Rose as BT Assistant in Science in the Petitioners school w.e.f. the date of her appointment on 15.12.2014 and disburse the grant-in-aid towards her salary with all attendant benefits, pending disposal of the Writ petition.



Prayer in WP(MD). 22931/ 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.1781/A2(e1)/2015 dated 26.08.2015, quash the same and further direct the 4th respondent District Educational Officer to approve forthwith the appointment of M. Sheeba Rose as BT Assistant in Science in the petitioners school w.e.f. the date of her appointment on 15.12.2014 with all attendant benefits including the arrears of salary and allowance.

For Appellants	: Mr.VR.Shanmuganathan Special Government Pleader
For Respondent	: Mr.Cibi Chakaraborthy

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 for appointment of one M.Sheebar Rose as B.T.Assistant (Science) in the respondent school and to pay salary to her from the date of her appointment, till the date of disposal of the writ petition.

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.

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.

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

5.Inasmuch as the learned counsel for the first 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:

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

"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 subsist, 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 (AS)

/True Copy/

Sub Assistant Registrar



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To

1.The Secretary, State of Tamil Nadu,
Department of School Education,
Fort. St. George, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

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

4.The District Educational Officer,
Kuzhithurai - 629 165, Kanyakumari District.

+1CC to Mr.Cibi Chakraborty Advocate Sr.No.22136

GJM/SKS/SAR-I-1.6.16-4p-6C

W.A. (MD) No.670 of 2016
against MP(MD) No.2 of 2015 and
WP(MD) No.22931 of 2015
and CMP(MD) No.4319 of 2016
20.04.2016