



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2016

CORAM:

WEB COPY

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

W.A. (MD) No.686 of 2016
and
W.M.P. (MD) .No.4432 of 2016

- 1.The Government of Tamil Nadu,
rep. by its Additional Chief Secretary,
Department of School Education,
Fort St.George, Chennai -9.
 - 2.The Director of School Education,
DPI Campus, College Road,
Chennai - 6.
 - 3.The Chief Educational Officer,
O/o.Chief Educational Officer,
Madurai District.
 - 4.The District Educational Officer,
O/o.District Educational Officer,
Madurai District.
- .. Appellants/Respondents 1to4
Respondents 1to4
- Vs.
- 1.R.Vennila
 - 2.The Correspondent,
St/ Joseph' Girls Higher Secondary School,
Old Kuyavarpalayam,
Madurai District.
- .. 2nd Respondent/5th Petitioner/
5th Respondent

PRAYER: Writ Appeal is filed under Clause XV of Letters of Patent, against the order dated 28.01.2016 made in W.M.P. (MD) No.1561 of 2016 in W.P. (MD) No.1818 of 2016.

Prayer in WMP(MD). 1561/ 2016 :

Petition praying that in the Circumstances stated therein and in the Affidavit filed therewith the High Court will be pleased to grant an order of interim direction to the respondents to pay salary to the petitioner, by according temporary approval to her appointment as B.T.Assistant (Tamil) in ST.Josephs Girls Higher Secondary School, Old Kuyavrpalayam, Madurai District 625



009, w.e.f. 22.06.2013, pending the above WP.

Prayer in WP(MD) . 1818/ 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 order passed by the 3rd respondent in his proceedings in Aa.Te.Mu.No.4593/A2/2014 dated 15.10.2014 quash the same as illegal and consequently direct the respondents to approve petitioner s appointment as a B.T. Assistant (Tamil) in the 5th respondent school, by considering the proposal dated 30.09.2014 in the light of the judgment of the Honourable Supreme Court in....

For Appellants : Mr.VR.Shanmuganathan
Special Government Pleader
For 1st respondent : Dr.Fr.A.Xavier Arul Raj

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 the first respondent as B.T.Assistant (Tamil) in the second 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.Dr.Fr.A.Xavier Arul Raj, learned counsel appearing for the first 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:

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"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.

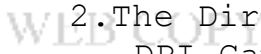
7.Accordingly, we direct that the first respondent shall be given her salary in the course of her employment and no steps to remove her from service shall be taken till the disposal of the writ petition. However, it is made clear that this order is subject to the final outcome of the pending writ petition. 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, 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/

/True copy/



- SDR/ARK-PV/SAR II/07.06.2016/4P/6C

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