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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2016

CORAM:

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

W.A.(MD)No.842 of 2016
and
C.M.P.(MD).No.5128 of 2016

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

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

3. The Chief Educational Officer,
The Office of the Chief Educational Office,
Tirunelveli District.

4. The District Educational Officer,
The Office of the District Educational Officer,
Cheranmadevei,
Tirunelveli District.

... Appellants/Respondents 1 to 4/
Respondents 1 to 4

Vs.

1.Sr.Grace Santhi,
Daughter of Chinnappan,
Fatima Girls Higher Secondary School,
Vallioor 627 117,
Tirunelveli District. ... 1st Respondent/Petitioner/
Writ Petitioner

2. The Correspondent,
Fatima Girls Higher Secondary School,
Karankadu,
Vallioor 627 117,
Tirunelveli District.

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... 2nd Respondent/5th Respondent/5th Respondent

PRAYER: Writ Appeal is filed under Clause XV of Letter Patent against the interim order dated 24.06.2015 in M.P.(MD).No.3 of 2015 in W.P.(MD).No.10260 of 2015.

Prayer in WP(MD). 10260/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Certiorarified Mandamus, calling for the records pertaining to the Impugned G.O. Ms. No. 181 School Education (C2), Department dated 15.11.2011, on the file of the 1st Respondent and the consequential Proceedings dated 26.05.2015 in O. Mu. No. 1323/AA4/2015, on the file of the 4th Respondent and quash the same in respect of the petitioner, directing the respondents to approve the appointment of the petitioner Sr.Grace Santhi, as B.T. Assistant (History) in Fatima Girls Higher Secondary School, Vallioor 627 117 Thirunelveli District, with all service benefits.

For Appellants : Mr.VR.Shanmuganathan
Special Government Pleader
For Respondent No.I : Mr.V.John Kennady

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 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 appellants in the appeal, has consented that, he is 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. 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(Crl.side)

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Sub Assistant Registrar

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To

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4. The District Educational Officer,
The Office of the District Educational Officer,
Cheranmadevei,
Tirunelveli District.

+1 cc to M/s.V.John Kennady, Advocate in SR.No.25653

AKV
CSL/SK/16.12.2016 :4P/6C

W.A.(MD)No.842 of 2016
29.04.2016

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