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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition (MD) No.9848 of 2016
and
W.M.P(MD)No.7777 of 2016

A.Ruba ...Petitioner

Vs.

1.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai 600 006.

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

3.The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.

4.Rt.Rev.Bishop and General Manager,
of Roman Catholic Management Schools,
Diocese of Kottar,
Bishop's House, P.B.No.17,
Asaripallam Road, Nagercoil 629 001,
Kanyakumari District.

5.The Superintendent of Roman Catholic,
Management Schools, Diocese of Kottar,
Assisi campus, Nagercoil 629 001.

6.St.Bernadette's Higher Secondary School,
Mangalakuntu and Post 629 178,
Kanyakumari District represented by
its Correspondent.

7.The Parish Council,
St., Bernadette's Church,
Mangalakuntu and Post 629 718,
Rep by its Secretary ...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to appoint the petitioner herein as Laboratory Assistant in the 6th respondent school by considering her application dated 16.05.2016 on the basis of the recommendation of

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the Educational Committee and Parish Council by considering seniority as a differentially abled condition in accordance with Section 33 of the Persons with Disabilities (Equal opportunities protection of rights and full participation) Act 1995.

For Petitioner : Mr.K.Bhaskaran
For Respondents 1-3 : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.

ORDER

The petitioner claiming to be a differently-abled person with 50% disability has come to this Court seeking for the issuance of a writ of mandamus, directing the fourth respondent to appoint her as Lab Assistant in the sixth respondent school by considering her application dated 16.05.2016 on the basis of the recommendation of the educational committee and Parish Council and by considering seniority as a differently-abled condition in accordance with Section 33 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act, 1995.

2.Learned counsel appearing for the petitioner would submit that she has passed higher secondary examination during the year 2012 with history, geography, political science and economics as optional subjects and she has also completed teacher training course during the year 2014 and with all that she is a differently-abled person with 50% disability on her right hand with no fingers. Moreover, she is a member of roman catholic church namely, St., Bernadette's church governed by the 7th respondent parish council. It is further submitted that when the petitioner contacted the sixth respondent Correspondent seeking appointment for the post of Lab Assistant, she was told that the recruitment will be made only under open quota after issuing proper notification. Subsequently, she has made an application in a prescribed format seeking appointment for the above said post but the same was refused by the 7th respondent church. Therefore, she has no other remedy except to approach this Court.

3.Learned counsel appearing for the petitioner submitted that considering the plight of the petitioner that she is a differently-abled person with 50% of her right hand with no fingers, a direction may be given to the sixth respondent school to consider her application.

4.This Court is not able to find any merits in the writ petition. Firstly, the writ petition is not maintainable against the private party. Secondly, unless there is any notification issued by the sixth respondent calling for eligible candidates to the post of Lab Assistant, the petitioner cannot come to this Court directly praying to give a direction to the sixth respondent to consider her application for the said post. Therefore, the writ

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petition fails and the same is dismissed. However, it is always open to the petitioner to apply for the above said post, if any notification is published. In such event, it is for them to consider her application depending upon her educational qualification. No costs. Consequently, W.M.P(MD)No.7777 of 2016 is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To
1.The Director of School Education,
DPI Complex, College Road,
Nungambakkam, Chennai 600 006.

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

3.The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.

+1cc to M/s.K.Bhaskaran, Advocate in SR.27811
+1cc to the Special Government Pleader, in SR.27972

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sms
PBK/GSV-PM/SAR-I 13/06/2016 ::3P-6C::

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