



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2016
CORAM

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD).Nos.17242 of 2013, 7889 and 5905 of 2014,
1023, 11207 to 11209 of 2015
and
M.P.(MD).Nos.1 of 2013,
1 and 2 of 2014 and 1 and 2 of 2015

E.YOVAN SHABI	.. PETITIONER in WP(MD) No.17242 of 2013
G.MARIAL HEPZIBAI	.. PETITIONER in WP(MD) No.7889 of 2014
R.SANTHAMANI	.. PETITIONER in WP(MD) No.5905 of 2014
D.TENNYSON SHIPLIE	
DEVABALAN	.. PETITIONER in WP(MD) No.1023 of 2015
R.SABEENA	.. PETITIONER in WP(MD) No.11207 of 2015
M.MARCELIN	.. PETITIONER in WP(MD) No.11208 of 2015
I.M.NITHILA MARY	.. PETITIONER in WP(MD) No.11209 of 2015

Vs.

1.THE STATE OF TAMIL NADU,REP.BY ITS SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION,
FORT.ST.GEROGE, CHENNAI-600 009.

2.THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, DPI CAMPUS, CHENNAI-600 006.

3.THE CHIEF EDUCATIONAL OFFICER,
NAGERCOIL, KANYAKUMARI DISTRICT.

4.THE DISTRICT EDUCATIONAL OFFICER,
NAGERCOIL, KANYAKUMARI DISTRICT.

5.THE CORRESPONDENT,CONCORDIA HIGH SCHOOL,
NAGERCOIL, KANYAKUMARI DISTRICT.

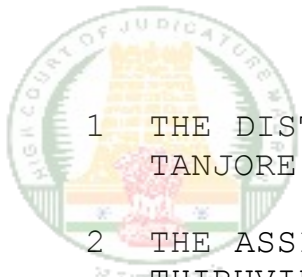
... RESPONDENTS IN WP(MD)NO.17242 OF 2013

1 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER
THOOTHUKUDI DISTRICT.

2 THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
ALWARTHIRUNAGARI AT THENTHIRUPERAI,
THOOTHUKUDI

<https://hcservices.hcma.org/correspondent>

A.S.P MIDDLE SCHOOL, KARUVELAMPADU,
THOOTHUKUDI DISTRICT. ... RESPONDENTS in WP(MD) No.7889 of 2014



1 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TANJORE DISTRICT.

2 THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
THIRUVIDAIMARUTHUR, TANJORE DISTRICT.

3 THE CORRESPONDENT,
THIRUVADUTHURAI AATHEENAM,
AMBALAVANA DESIKAR MIDDLE SCHOOL,
THIRUVADUTHURAIMARUTHUR,
TANJORE DISTRICT. ... RESPONDENTS in WP(MD) No.5905 of 2014

1 THE DIRECTOR OF ELEMENTARY EDUCATION,
CHENNAI -6.

2 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
THOOTHUKUDI DISTRICT.

3 THE ADDITIONAL ASSISTANT ELEMENTARY
EDUCATIONAL OFFICER, PUTHUR ,
THOOTHUKUDI DISTRICT.

4 THE CORRESPONDENT,
T.N.D.T.A. PRIMARY AND MIDDLE SCHOOLS
NAGALAPURAM,
THOOTHUKUDI DISTRICT. ... RESPONDENT in WP(MD) No.1023 of 2015

1 THE STATE OF TAMILNADU, REP.BY ITS SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION,
FORT.ST.GEROGE CHENNAI -600 009.

2 THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD CHENNAI 600 006.

3 THE CHIEF EDUCATIONAL OFFICER,
CHIEF EDUCATIONAL OFFICE,
KANYAKUMARI DISTRICT, NAGERCOIL.

4 THE DISTRICT EDUCATIONAL OFFICER,
DISTRICT EDUCATIONAL OFFICE
THUCKALAY-629 175, KANYAKUMARI DISTRICT.

5 THE CORRESPONDENT,
CARMEL GIRLS HR.SECONDARY SCHOOL,
(MINORITY AIDED SCHOOL),
MANALIKARAI- 629 164
KANYAKUMARI DISTRICT. .. RESPONDENTS in WP(MD) No.11207,11208 &
11209 of 2015

PRAYER IN WP(MD)NO.17242/2013:

<https://hcservices.ecourt.gov.in/hcservices>
Petitioner's Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the fourth respondent District Educational Officer to approve forthwith the



appointment of the petitioner as Junior Grade B.T.Assistant Mathes Teacher in the 5th respondent school, namely, Concordia High School, Nagercoil, Kanyakumari District, with effect from the date of petitioner's appointment on 15.06.2011 with all attendant benefits including the arrears of salary and allowance.

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Prayer in WP(MD) No.7889 of 2014:

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 pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka. No. 197/A5/2014 dated 05.02.2014 and quash the same and direct the respondents to approve the appointment of the petitionoenr as a Secondary Grade Teacher from the date of appointment and confer all the consequential benefits and pass such further or other orders.

Prayer in WP(MD) No.5905 of 2014:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, or any other appropriate Writ or Order or direction, in the nature of Writ, directing the respondents to approve the appointment of the petitioner as a Secondary Grade Teacher from the date of appointment i.e., from 01.06.2012 and confer all the consequential benefits.

Prayer in WP(MD) No.1023 of 2015:

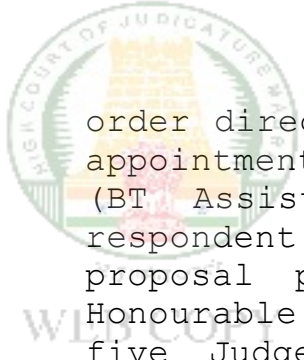
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd Respondent in his proceedings in Oo.Mu.No. 3384/A4/2012 dated 29.11.2012 and quash the same and direct the respondents to approve the appointment of the petitioner as a Secondary Grade Teacher from the date of appointment and confer all the consequential benefits and pass such further or other orders.

Prayer in WP(MD) No.11207 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any order directing the respondents 1 to 4 to approve the petitioner s appointment to the post of Graduate Assistant Teacher (Science) (BT Assistant Science) with effect from 1.6.2013 in the 5th respondent Minority Aided school based on the 5th respondent proposal proceedings No.13/2014 dated 20.01.2014 in view of the Honourable Supreme Court of India Verdict dated 6.5.14 rendered by five Judges Constitutional Bench in WP(C).No.1081/13 with all attendant benefits and salary within a reasonable time as may be prescribed by this Hon`ble Court.

[https://hccourts.in/wp-content/uploads/2015/01/Prayer-in-WP\(MD\)-No.11208-of-2015.pdf](https://hccourts.in/wp-content/uploads/2015/01/Prayer-in-WP(MD)-No.11208-of-2015.pdf)

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any



order directing the respondents 1 to 4 to approve the petitioner's appointment to the post of Graduate Assistant Teacher (Science) (BT Assistant Science) with effect from 1.6.12 in the 5th respondent Minority Aided school based on the 5th respondent proposal proceedings No.77/2013 dated 25.6.13 in view of the Honourable Supreme Court of India Verdict dated 6.5.14 rendered by five Judges Constitutional Bench in WP(C).No.1081/13 with all attendant benefits and salary within a reasonable time as may be prescribed by this Hon'ble Court.

Prayer in WP(MD) No.11209 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 4 to approve the petitioner's appointment to the post of Graduate Assistant Teacher (Science) (BT Assistant Science) with effect from 01.06.2013 in the 5th respondent Minority Aided School based on the 5th respondent proposal proceedings No.12/2014 dated 20.01.2014, in view of the Honourable Supreme Court of India verdict dated 06.05.2014 rendered by five Judges Constitutional Bench in W.P (C) No.1081 of 2013, with all attendant benefits and salary within a reasonable time as may be prescribed by this Hon'ble Court.

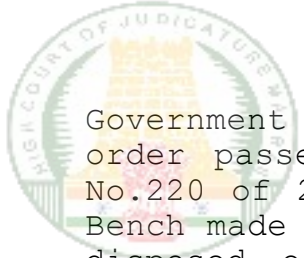
Petitioner : M/S.F.DEEPAK, ADVOCATE IN WP(MD)NO.17242/2013
 MR.V.PANNEER SELVAM IN WP(MD)7889, 5905/2014
 AND WP(MD)NO.1023/2015
 : MR.M.SATHIAMOORTHY, ADVOCATE IN WP(MD)NOS.
 11207 TO 11209/2015

Respondents : MR.VR.SHANMUGANATHAN SPL.GOV'T.PLEADER
 FOR RR1 TO RR4 IN WP(MD)NO.17242/2013
 FOR RR1 & RR2 IN WP(MD)NO.7889/2014
 FOR RR1 & RR2 IN WP(MD)NO.5905/2014
 FOR RR1 TORR3 IN WP(MD)NO.1023/2015
 FOR RR1 TORR4 IN WP(MD)NOS.11207 TO 11209/2015
 : MR.S.MANOHAR, ADVOCATE FOR R3 IN WP(M)No.5905/2014
 : MR.ISACC MOHANLAL, ADVOCATE FOR
 MR.CIBI CHAKRABARTHY, ADVOCATE FOR R5
 IN WP(MD)NOS.11207 TO 11209/2015

COMMON ORDER

Since the issue involved in all the Writ Petitions are one and the same, these matters are taken up together and disposed of, by this common order.

2. When these matters are taken up for hearing, all the parties fairly submitted that although the issue involved in all these Writ Petitions was already decided by the Apex Court, the main issue is still pending. By saying so, Mr.VR.Shanmuganathan, learned Special



Government Pleader appearing for the official respondents produced an order passed by the Division Bench of this Court made in W.A.(MD). No.220 of 2016 dated 05.02.2016. Following the order of the Division Bench made in W.A.(MD).No.220 of 2016 dated 05.02.2016, this Court has disposed of the Writ Petition in W.P.(MD).No.17878 of 2015 dated 05.07.2016.

3. At this juncture, it is necessary to extract paragraphs 4 to 8 of the order passed by the Hon'ble Division Bench in **W.A.No.1299 of 2015, dated 14.09.2015**, which are given as under:-

"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."

4. In view of the above, all the Writ Petitions stand disposed of, with a direction to the official respondents to grant salary in the course of their employment within a period of two weeks from the date of receipt of a copy of this order and no steps to remove them from service shall be taken. However, it is made clear that these orders are subject to the final outcome of the case pending before the Supreme Court in **Aswini Thanappan Vs. Director of Education and another - (2014) 8 SCC 272**. It is further made clear that the petitioner shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1. THE SECRETARY, THE STATE OF TAMIL NADU,
DEPARTMENT OF SCHOOL EDUCATION, FORT.ST.GEROGE,
CHENNAI-600 009.

WEB COPY

2. THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, DPI CAMPUS, CHENNAI-600 006.

3 THE DIRECTOR OF ELEMENTARY EDUCATION,
CHENNAI -6

4. THE CHIEF EDUCATIONAL OFFICER,
NAGERCOIL, KANYAKUMARI DISTRICT.

5. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
THOOTHUKUDI DISTRICT.

6. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TANJORE DISTRICT.

7.THE DISTRICT EDUCATIONAL OFFICER,
NAGERCOIL, KANYAKUMARI DISTRICT.

8. THE DISTRICT EDUCATIONAL OFFICER,
DISTRICT EDUCATIONAL OFFICE, THUCKALAY-629 175,
KANYAKUMARI DISTRICT.

9. THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
ALWARTHIRUNAGARI AT THENTHIRUPERAI,
THOOTHUKUDI

10. THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
THIRUVIDAIMARUTHUR, TANJORE DISTRICT

11.THE ADDITIONAL ASSISTANT ELEMENTARY
EDUCATIONAL OFFICER, PUTHUR, THOOTHUKUDI DISTRICT.

+1CC to Mr.R.Deepak, Advocate Sr.No.41731

+3CC to Mr.V.Paneer Selvam, Advocate Sr.No.41316, 41318, 41317

+1CC to Mr.S.Manohar, Advocate Sr.No.41130

+3CC to Mr.M.Sathiamoorthy, Advocate Sr.Nos.41147, 41146, 41145

ssm

CSL/NGM/MP/9.8.16-6P-20C

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of 2014,

1023, 11207 to 11209 of 2015
and

M.P. (MD) .Nos.1 of 2013,

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