

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.No.1529 of 2017
and

C.M.P.No.20317 of 2017

- 1.The Government of Tamil Nadu
rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Nilgiris.
- 4.The District Educational Officer,
Gudalur, Nilgiris. ..Appellants/Respondents 1to4

vs.

- 1.Sr. Jayaseeli
St. Francis Xavier Girl's High School,
Pandalur, Nilgiris -632 233. ..1st Respondent/
Writ petitioner
- 2.The Correspondent,
St. Francis Xavier Girls High School,
Pandalur, Nilgiris -643 233. ..2nd Respondents/
5th Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 14.07.2014 passed by a learned Single Judge of this Court in W.P.No.13241 of 2009. Writ petition filed under Article 226 of the constitution of India for the issuance of a writ of certiorarified Mandamus calling for the records pertaining to the proceedings dated 22.07.2008 in Na.Ka.No.2549/A3/08 on the file of the 4th respondent and quash the same directing the respondents to accord approval to the appointment of the petitioner Sr.Jayaseeli as Junior Assistant

in St.Francis Xavier Girls High School Pandalur Nilgiris-643233 w.e.f. 01.09.2006 with all attendant benefits.

For Appellants : Mr.P.S.Sivashanmuga Sundaram, SGP
For Respondents : Dr.Fr.Xavier Arul Raj, SC
for M/s.A.Arul Mary

JUDGMENT

(Judgment of the Court was made by RMT. TEEKAA RAMAN,J.)

Challenging the correctness of the order passed by a learned Single Judge, the State has preferred this writ appeal.

2.The first respondent herein, was appointed as Junior Assistant in the second respondent school with effect from 01.09.2006. Since she was appointed during the ban period, salary has not been paid to her. Hence, she preferred a writ petition in WP.No.13241 of 2009. The learned Single Judge, by the order impugned herein, allowed the said writ petition, observing that in respect of the school run by the minority institution, ban is not applicable and in respect of the appointment of non-teaching staff in the sanctioned post, no prior approval is necessary. As against the said order, the State has preferred this writ appeal.

3.Mr.Fr.Xavier Arul Raj, learned Senior Counsel representing M/s.A.Arul Mary, learned counsel, who filed a caveat for the first respondent, submitted that the point involved in this writ appeal is no longer res integra and is duly covered by the judgment of a Division Bench of this Court dated 07.12.2016 passed in WA.No.13 of 2010 [The Government of Tamil Nadu rep. By its Secretary and others v. Miss.S.Mary Victoris and another].

4.Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing for the State, is not in a position to dispute the aforesaid admitted legal position.

5.In the judgment cited supra, the Division Bench of this Court, following the earlier judgment of a Division Bench, dismissed the writ appeal filed by the State. The relevant paragraphs of the said judgment are extracted hereunder:

7(iv) In W.A.(MD) No.306 of 2011, (1. The Director of School Education, Chennai 600 006 and Another Vs. 1. P. Govil Pillai and Another) dated 4/3/2011, a Hon'ble Division Bench held as follows:-

"6. The learned counsel appearing for the first respondent submits that the said order dated 30/10/2007 made in W.P.(MD) No.484 of

2007, was challenged by the respondents - Education Department in Writ Appeal (MD) No.308 of 2008 and the said Writ Appeal was also dismissed by a Division Bench of this Court on 4/8/2008. In the said judgment, the Division Bench, in paragraph Nos.4 and 5, has held as follows:-

"4. After considering the rival submissions made on either side, following the judgment of the Supreme Court and the order of this Court, the learned Single Judge set aside the orders of the appellants with a direction to approve the appointment of the respondent/petitioner as Lab Assistant with effect from 7/2/2006 and the third respondent was directed to pass orders approving the appointment of the first respondent with effect from 7/2/2006 within a period of four weeks from the date of receipt of copy of the order.

5. We find no infirmity or illegality in the order of the learned Judge dated 30/10/2007 passed in W.P.(MD) No.484 of 2007. Therefore, the writ appeal fails and the same is dismissed."

10. He further added that in respect of non-teaching staff, based on the orders, passed by the Hon'ble Division Benches of this Court and the order passed by the learned Single Judge in W.P.(MD) Nos.11481 of 2008 batch, dated 15/3/2016, the appellants have also complied with the directions and granted approval of appointments made."

6. In the light of the aforesaid judgment, we do not find any reason to interfere with the impugned order of the learned Single Judge.

7. Accordingly, this writ appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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TO

1.The Secretary to the
Government of Tamil Nadu
Department of School Education,
Fort St. George, Chennai - 600 009.

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

3.The Chief Educational Officer,
Nilgiris.

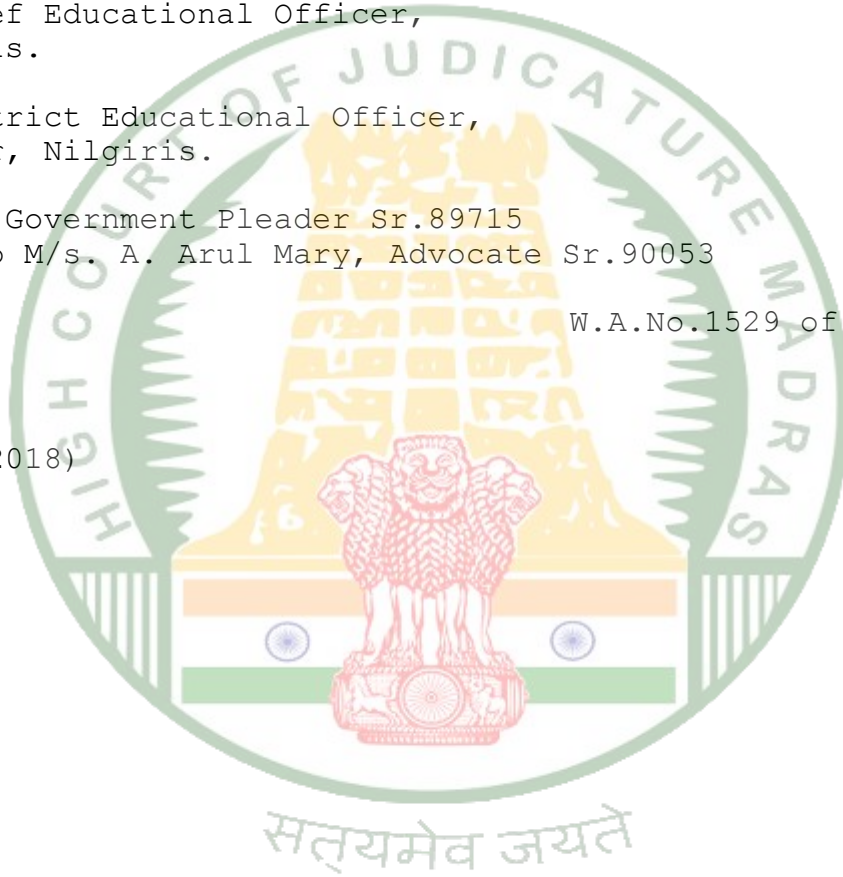
4.The District Educational Officer,
Gudalur, Nilgiris.

+ 1 cc to Government Pleader Sr.89715

+ 2 ccs to M/s. A. Arul Mary, Advocate Sr.90053

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