





For Appellants : Mr.VR.Shanmuganathan  
Special Government Pleader

For Respondent : Mr.T.Cibi Chakraborty

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JUDGMENT

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[Judgment of the Court was made by R.SUBBIAH, J.]

This Writ Appeal has been filed as against the order, dated 21.02.2014, made in W.P.(MD).No.6606 of 2011, whereby and whereunder the learned Single Judge has allowed the Writ Petition filed by the respondent school, granting approval with all monetary benefits, within a period of two weeks from the date of receipt of a copy of the order.

2. The case of the respondent school before the learned Single Judge is that the respondent school is a recognized aided private school, which is a Malayalam Linguistic Minority Educational Institution. The respondent school is offering education from standards I to XII. It was initially established as a Primary School in the year 1978. Thereafter, it was upgraded as a High School in the year 1989 and later, as a Higher Secondary School in the year 1995. The State Government has been providing grant-in-aid upto the level of High School. The total strength of the respondent school is 613. There are 27 teachers, viz., one Headmaster, six Senior Assistants, three Middle School Assistants and twelve Secondary Grade Teachers, working in the respondent school. Apart from the above, there are Special Teachers, viz., one Sewing Mistress, Two Tamil Pandits, one Malayalam Teacher, one Physical Education Teacher and two non-Teaching Staff. The above said 13 Post Graduate Assistants have been working in the Higher Secondary under the self-financed scheme.

3. It is the further case of the respondent school that out of 13 Secondary Grade Teachers, one Tmt.K.Gangeswari Amma retired from service on 31.05.2005, on attaining the age of superannuation. In the said vacancy, the respondent school appointed one Tmt.M.S.Geetha Kumari, with effect from 02.06.2005. She possessed Degrees of B.A, M.A [Economics], M.A.[History] and M.Ed. The said Tmt.M.S.Geetha Kumari studied in Kerala with Malayalam as the first language and English as the second language. After her appointment, the respondent school submitted a proposal to the fifth appellant herein on 22.08.2005, seeking approval and disbursement of grant-in-aid.

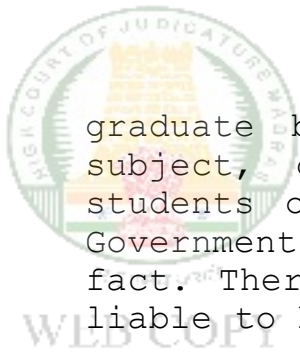
4. The fifth appellant, vide proceedings dated 20.04.2006, returned the said proposal on the ground that certain particulars were not provided, viz., details as to whether the subject roster services were provided in making the appointment and as to whether no objection certificate had been obtained from the Chief Educational Officer concerned for filling up the post. The fifth appellant had



also pointed out that the said Tmt.M.S.Geetha Kumari had studied English as Part-I and Hindi as Part-II in B.A.Degree and her appointment could be approved only in a school with Hindi as the medium of instruction. Thereafter, the respondent school re-submitted the proposal stating that the respondent school had appointed her after considering the over all educational need of the school and she has been teaching apart from general subjects and there was no statutory requirement for obtaining No Objection Certificate from the Chief Educational Officer for filling up the regular vacancies arising out of sanctioned post, that too, in a minority educational institution and that the said teacher had studied English as Part-I and Hindi as Part-II in her B.A., Degree and therefore, she has been teaching English language to the students of Malayalam Medium. In spite of the said reply, the approval of appointment of Tmt.M.S.Geetha Kumari has not been approved.

5. Under the said circumstances, the respondent school was constrained to file W.P.(MD).No.11229 of 2006, challenging the subject-roster announced by the second appellant herein. By order dated 11.12.2007, the said Writ Petition was allowed, setting aside the impugned order of subject-roster with a direction to the fifth appellant to consider the first language of the said teacher as Malayalam in SSLC and the first language of the said teacher in B.A., Degree as English and the availability of the subject in the respondent school and pass revised orders. However, the fifth appellant issued the proceedings dated 05.08.2008, declining to approve the appointment of the said Tmt.M.S.Geetha Kumari on the ground that she possesses B.A., Economics and not B.A., History. Aggrieved over the said order, the respondent school preferred an appeal before the second appellant. However, the second appellant has not passed any order. The third appellant herein issued proceedings dated 08.06.2010, refusing to approve the appointment of the said Tmt.M.S.Geetha Kumari, on the ground that the Economics was not a teaching subject in standards 6 to 10. The said order was challenged by the respondent school by filing W.P. (MD).No.6606 of 2011. The learned Single Judge of this Court, by order dated 21.02.2014, has allowed the Writ Petition, directing the appellants herein to grant approval with all monetary benefits, within a period of two weeks from the date of receipt of a copy of the order. Aggrieved over the same, the appellants have come up with this Writ Appeal.

6. Mr.VR.Shanmuganathan, the learned Special Government Pleader appearing for the appellants, submitted that the order dated 08.06.2010, refusing to approve the appointment of Tmt.M.S.Geetha Kumari was passed on the appeal preferred by the said Tmt.M.S.Geetha Kumari. She has not chosen to challenge the same. Apart from the above, the learned Special Government Pleader submitted that the said Tmt.M.S.Geetha Kumari, being a



graduate both in Undergraduate and Postgraduate with Economics subject, could be a graduate for Economics and not for the students of standards 5 to 10. According to the learned Special Government Pleader, the learned Single Judge has ignored the said fact. Therefore, the order passed by the learned Single Judge is liable to be set aside.

7. Per contra, the learned counsel appearing for the respondent school submitted that since the said Tmt.M.S.Geetha Kumari possessed the required qualification of B.A, M.A [Economics], M.A.[History] and M.Ed, she was appointed in a sanctioned post. The learned counsel, inviting the attention of this Court to Annexure V-A of the Tamil Nadu Recognized Private School [Regulation], Rules, 1973, submitted that the Rule does not prescribe that the person, who holds an undergraduate degree in specific subject alone should be appointed in such post. Therefore, when the said Tmt.M.S.Geetha Kumari possessed the degree of M.A [Economics], there cannot be any impediment to approve her appointment.

8. We have considered the above submissions and keeping in mind the said submissions made on either side, we have carefully gone through the materials available on record.

9. In our considered view, as rightly contended by the learned counsel appearing for the respondent school, the Rule does not prescribe that the person, who holds an undergraduate degree in specific subject alone should be appointed in such post. The said Tmt.M.S.Geetha Kumari possessed the qualification of B.A, M.A [Economics], M.A.[History] and M.Ed. Thus, the learned Single Judge was right in granting the relief as prayed for the first respondent school, which, in our considered view, does not warrant any interference at the hands of this Court.

10. In the result, the Writ Appeal is dismissed, confirming the order, dated 21.02.2014, made in W.P.(MD).No.6606 of 2011. The appellants are directed to implement the order passed by the learned Single Judge within a period of six weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,  
Department of School Education,  
Fort.St.George, Chennai 09



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

3.The Joint Director of School Education,  
[Secondary Education], College Road, Chennai 600 006.

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

5.The District Educational Officer,  
Kuzhithurai at Marthandam,  
Kanyakumari District.

+1cc to Spl.Govt. Pleader, SR.No:5723

+1cc to Mr.T.Chakraborty, Advocate, SR.No:5243

NB

AE/CM MSA/15.02.2017/5P/8C

JUDGMENT MADE IN  
W.A.[MD].No.887 of 2014  
31.01.2017