



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD] .No.431 of 2017
and
C.M.P (MD) .No.3993 of 2017

- 1.The Government of Tamil Nadu,
Represented by the Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Cheranmahadevi @ Tirunelveli,
Tirunelveli District. : Appellants/Respondents 1 to 4

Vs.

- 1.J.Anna Malar :1st Respondent/Writ Petitioner
- 2.The Correspondent,
St.Mary's Higher Secondary School,
Uvari 627 658,
Tirunelveli District. : 2nd Respondent/5th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 29.06.2016 made in W.P.(MD).No.10508 of 2015, on the file of this Court.

Prayer in WP(MD). 10508/ 2015 :

Writ of Mandamus, directing the 4th respondent herein to approve the appointment of the petitioner as Pre Vocational Instructor (Sewing) and disburse salary and other attendant benefits w.e.f. 02.11.2011 within a reasonable time as may be specified by this Honourable Court.



For Appellants

: Mr.V.Muruganantham
Additional Government Pleader

For Respondent No.1

: Mr.A.Ajith Geethan

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JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Muruganantham, learned Additional Government Pleader appearing for the appellants and Mr.A.Ajith Geethan, learned counsel appearing for the first respondent. By consent, the Writ Appeal is taken up for final disposal at the stage of admission itself.

2. This Writ Appeal is directed against the order dated 29.06.2016 made in W.P.(MD).No.10508 of 2015.

3. The issue involved in this Writ Appeal is no longer *res integra*. Considering the very same issue, this Court, very recently, in **W.A.(MD).No.421 of 2017**, dated **19.04.2017**, has held as follows:-

"3. The Writ Petition was filed by the first respondent herein seeking for setting aside the order passed by the fourth appellant herein, dated 19.01.2015 and to direct the fourth appellant to approve the appointment of the first respondent herein as pre-vocational Instructor [Sewing] and disburse salary and other benefits.

4. The said Writ Petition was heard along with another W.P.[MD]No.10508 of 2015, wherein a similar relief was sought for. The Writ Court heard the matters together and after taking note of the earlier order passed in W.P.[MD]No.11501 of 2008, allowed the Writ Petition and directed the appellants herein to approve the appointment of the first respondent herein and release the salary within a time frame.

5. The appellants have challenged the order passed by the Writ Court on the ground that though the second respondent institution is a minority institution, they do not require prior permission for filling up retirement vacancy, in the instant case, the post, which was sanctioned is a pre-vocational instructor [Agriculture] and the vacancy could have been filled up with the Pre-Vocational Instructor [agriculture], whereas the second respondent has filled up the vacancy with the Pre-Vocational Instructor [Sewing], that too, without obtaining prior approval of the Director of School Education, who is the second appellant herein.

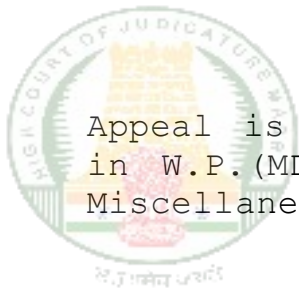


6. An identical issue was considered in the case of Management of RC School, Tirunelveli Vs. Director of Elementary Education and another in W.P.[MD] No.11501 of 2008, dated 20.09.2010. In the said case also, a similar appointment was made and the management contented that there were no tackers for the Vocational subject of agriculture and therefore, they have appointed the pre-vocational Instructor [Sewing]. The Writ Court, considering the factual aspect as well as the Government Order issued in G.O.Ms.No.39, School Education Department, dated 21.03.2003 and by interpreting the same, allowed the Writ Petition and directed the approval of the appointment. It is not in dispute that the said order passed in favour of one Tmt.J.Vasanthi has been approved and she has been paid salary.

7. In the case on hand, the first respondent management took a specific stand in the Writ Petition that after the retirement of Tmt.A.Irudaya Stella, on 31.05.2014, the students were not interested in agriculture subject and the school being situated in the seashore area and the water had become saline and unfit for raising saplings and crops and there was a constant request from the Parent Teacher Association in this regard, the management appointed the first respondent herein as Pre-Vocational Instructor [Sewing]. It may be true that prior approval has not been obtained by the management before the appointment of Pre-Vocational Instructor [Sewing]. But, what is important is that the post, which has been sanctioned is pre-vocational instructor and the subject may be agriculture, carpenter, Weaving, Sewing and Music.

8. Considering the factual situation pleaded by the management as well as the first respondent herein, there is no serious error committed by the management in accommodating the Pre-Vocational Instructor [Sewing], instead of Pre-Vocational Instructor [agriculture]. Further, it is brought to the notice of this Court that in respect of another similar appointment of one Tmt.J.Vanitha in Annai Terasa High School, Manappadu, by proceedings dated 12.03.2016, the District Educational Officer at Tirunelveli, has approved the appointment. Thus, for all the above reasons, no good grounds are made out to interfere with the order passed by the Writ Court.

9. In the result, the Writ Appeal is dismissed, confirming the order dated 29.06.2016 made in W.P. (MD).No.10507 of 2015. No costs. Consequently, Miscellaneous Petition is closed".



Appeal is dismissed, confirming, the order dated 29.06.2016 made in W.P.(MD).No.10508 of 2015. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

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Sub Assistant Registrar

To

- 1.The Secretary to Government,
Department of School Education,
Fort St. George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Cheranmahadevi @ Tirunelveli,
Tirunelveli District.

+1 cc to Mr.A.Ajith Geethan , Advocate in SR.No. 53690

NB

AE/SV/05.05.2017/4P/6C

**JUDGMENT MADE IN
W.A. [MD] .No.431 of 2017
21.04.2017**