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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.4785 of 2017 and
W.M.P.(MD) No.3825 of 2017

The Correspondent & Headmaster,
St.Agnes Girls' Higher Secondary School,
Royappanpatti - 625 526,
Theni District.

... Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai - 600 009.

2.The Chief Educational Officer,
Theni - 625 531, Theni District.

3.The District Educational Officer,
Uthamapalayam - 625 533,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent, District Educational Officer in A.Th.Mu.No.844/A2/2017, dated 04.03.2017, to quash the same and further to direct the 3rd respondent, District Educational Officer herein to approve forthwith the appointment of K.Seline Iruthaya Mary as Junior Assistant in the petitioner school with effect from 01.06.2016 with all attendant benefits including the arrears of salary and allowance.

For Petitioner	: Mr.T.Cibichakraborty
For Respondents	: Mr.J.Gunaseelan Muthaiah, Government Advocate.

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the 3rd respondent, District Educational Officer in A.Th.Mu.No.844/A2/2017, dated 04.03.2017, to quash the same and further to direct the 3rd respondent, District Educational Officer herein to approve forthwith the appointment of K.Seline Iruthaya Mary as Junior Assistant in the petitioner school with effect from 01.06.2016 with all attendant benefits including the arrears of salary and allowance.



2. Heard, Mr.T.Cibichakraborty, learned counsel appearing for the petitioner and Mr.J.Gunaseelan Muthaiah, learned Government Advocate appearing for the respondents.

3. Mr.J.Gunaseelan Muthaiah, learned Government Advocate takes notice for the respondents. By consent, the Writ petition itself is taken up for final disposal.

4. The petitioner school is a private minority aided institution. In the petitioner school, one post of Junior Assistant fell vacant on 01.06.2016. Due to the retirement of one previous incumbent one Leeli Pushpam who is the Junior Assistant in the vacancy, the petitioner school appointed one K.Seline Iruthaya Mary as Junior Assistant with effect from 01.06.2016. The petitioner school submitted proposals to the third respondent on 31.08.2016 for approval. However, the third respondent returned the proposal by the impugned order dated 04.03.2017. According to the learned counsel for the petitioner, no prior approval is required in the case of appointment of non-teaching staff in the private aided institution.

5. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Government Advocate and the learned Government Advocate after getting instructions, has conceded the factual position that one K.Seline Iruthaya Mary to whom the approval is sought for, was appointed as against the sanctioned post. In this case, the appointment is made by the petitioner school which is a private school getting aid from the Government.

6. The question whether prior approval is required or not before appointing a non-teaching staff in a private aided institution has already been decided in favour of the petitioner holding that no prior permission is required. The attempt of the Government by restricting or preventing the private aided institution from making appointment as against sanctioned post was the subject matter of challenge in several Writ petitions and this Court has consistently allowed all the Writ petitions quashing the order refusing approval or other Government Orders or instructions preventing the private aided schools from making appointment on their own as against sanctioned post.

7. Hence, following the law laid down by this Court in number of Judgments, the Writ petition is allowed and the impugned order passed by the third respondent in A.Th.Mu.No.844/A2/2017, dated 04.03.2017, is quashed. The third respondent, namely, the District Educational Officer, Theni District, in this Writ petition is directed to accord approval to the appointment of K.Seline Iruthaya Mary as Junior Assistant in the petitioner school which is a private aided institution with effect from the date of joining in service with all monetary and other service benefits



within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar

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/ True Copy /

Sub Assistant Registrar(C.S.)

To

- 1.The Director of School Education,
College Road, Chennai - 600 009.
- 2.The Chief Educational Officer,
Theni - 625 531,
Theni District.
- 3.The District Educational Officer,
Uthamapalayam - 625 533,
Theni District.

+1cc to M/S.T.CIBICHAKRABORTHY, Advocate SR.No.61019

pmu

MAS/KP/SAR2:05.07.2017:3P-5C

ORDER MADE IN
W.P. (MD) No.4785 of 2017
and
W.M.P. (MD) No.3825 of 2017
19.06.2017