



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.7105 of 2017

and

W.M.P.(MD)No.5619 of 2017

St.Ursula's Girls Higher Secondary School,
Kulasekharam, Kanyakumari District,
Represented by its Correspondent,
Sister.Mary Rosely.

... Petitioner

Vs.

1.The Chief Educational Officer,
Kanyakumari,
Kanyakumari District.
2.The District Educational Officer,
Thuckalay,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to consider the proposals, dated 12.08.2016, for approval of the appointment of D.Anitha, as B.T. Assistant(Science) in the petitioner school and approve the same with effect from the date of the appointment i.e 01.06.2016 with all consequential monetary benefits.

For Petitioner	: Mr.S.Manikandan
For Respondents	: Mr.J.Gunaseelan Muthaiah, Government Advocate.

ORDER

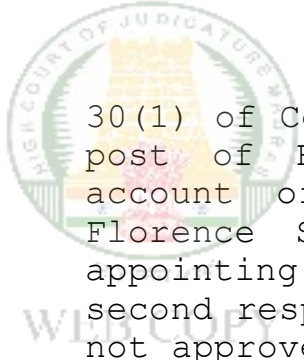
This Writ Petition is filed for issuing a Writ of Mandamus, directing the 2nd respondent to consider the proposals, dated 12.08.2016 for approval of the appointment of D.Anitha, as B.T. Assistant(Science) in the petitioner school and to approve the same with effect from the date of the appointment, i.e., 01.06.2016 with all consequential monetary benefits.

2. Heard the learned counsel appearing for the petitioner and the 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.

<https://hcservices.ecourts.gov.in/hcservices/>

4. It is not in dispute that the petitioner is a private minority aided school entitled to the provision of under Article



30(1) of Constitution of India. The petitioner submitted that the post of B.T.Assistant(Science) fell vacant on 31.05.2016, on account of resignation of previous incumbent one Sr. Pyulla Florence Sisliya. The petitioner filled up the said post by appointing a new candidate and submitted proposals before the second respondent on 12.08.2016. However, the said appointment was not approved on the only ground that the teacher who was appointed did not have a qualification of pass in "Teachers Eligibility Test". The Hon'ble Supreme Court has held that the Right of Children to Free and Compulsory Education Act, 2009, is not applicable to minority institutions. It has also been held that the requirement of pass in Teachers Eligibility Test cannot be insisted in respect of minority schools. The learned Government Advocate got instructions from the respondents and submitted that the approval was not given only on the ground that the teacher did not have the qualification of pass in "Teachers Eligibility Test".

5. In such circumstances, the Writ petition is allowed and the second respondent is directed to approve the appointment of D.Anitha as B.T.Assistant in the petitioner's school with effect from 01.06.2016 with all monetary and service benefits within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1.The Chief Educational Officer,
Kanyakumari,
Kanyakumari District.
- 2.The District Educational Officer,
Thuckalay,
Kanyakumari District.

+1cc to M/S.S.Manikandan, Advocate SR.No.61060
+1cc to Special Government Pleader, SR.No. 60977

ORDER MADE IN
W.P. (MD) No.7105 of 2017
and
W.M.P. (MD) No.5619 of 2017
19.06.2017