



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2016

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THE HONOURABLE DR.JUSTICE S.VIMALA

W.P. (MD) No.22936 of 2016

and

W.M.P. (MD) No.16411 of 2016

B.U.Ushas

.. Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary
Department of School Education,
Fort St.George, Chennai - 600 009.

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

3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

4.The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.

5.The Secretary,
Sree Devi Girls Higher Secondary School,
Kollemcode - 629 160,
Kanyakumari District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent CEO in Na.Ka.No.1905/Aa1/2016 dated 26.05.2016, quash the same, and further direct the 3rd and fourth respondents to approve forthwith the appointment of the petitioner as P.G.Assistant in Physics in the 5th respondent school, namely Sree Devi Girls Higher Secondary School, Kollemcode, Kanyakumari District, and disburse the grant-in-aid towards her salary and allowances w.e.f. the date of her appointment viz., 01.06.2011.

For Petitioner

: Mr.T.Cibi Charaborthy

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

For Respondent

: Mr.T.S.Mohammed Mohideen

Additional Government Pleader

**ORDER**

This is a writ of Certiorari of Mandamus challenging the order of the third respondent, dated 26.05.2016, under which, the third respondent has rejected the request of the fifth respondent school seeking for approval of appointment of the petitioner as P.G.Assistant in Physics.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent. By consent the writ petition itself is taken up for final disposal at the admission stage.

3. The petitioner is working as P.G.Assistant in Physics in the fifth respondent school, which is a sanctioned post. One post of P.G.Assistant in Physics in the fifth respondent school fell vacant on 01.06.2011 due to retirement of one V.S.Syamala Bai. In that vacancy, the petitioner was appointed and the petitioner continues to work in the school.

4. The fifth respondent school submitted a proposal to the fourth respondent requesting to approve her appointment as P.G.Assistant in Physics from 01.06.2011 and disburse grant-in-aid towards her salary. But the fourth respondent returned the proposal and directed to resubmit the proposal after rectifying the deficiencies pointed out therein. Despite, the fifth respondent school resubmitted the proposal, the application for approval of appointment has been rejected by the fourth respondent by impugned dated 26.05.2016. Hence, the present Writ Petition has been filed.

5. The learned counsel for the petitioner has submitted that the impugned order is illegal in the light of the Judgment made by this Court in **S. CHRISTY v. THE CHIEF EDUCATIONAL OFFICER, KANYAKUMARI DISTRICT AT NAGERCOIL** reported in **2011 (5) CTC 532**, wherein it has been clearly held as follows:-

"5. In view of the settled law by this Court, the stand taken by the respondent in not considering the case of the petitioner for granting approval of the petitioner is not sustainable in law, as on true interpretation of Rule 15, only conclusion which can be drawn is, that for appointment to sanctioned post, no prior approval is necessary, nor it can be a ground to deny the approval to appointment of a qualified person."

6. Under such circumstances, the impugned order dated 26.05.2016 is set aside. The matter is remitted back to the respondents with a direction to consider the matter afresh, in the



light of the Judgment of this Court reported in **2011 (5) CTC 532.**

7. In the result, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary

Department of School Education,
Fort St. George, Chennai - 600 009.

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

3. The Chief Educational Officer,
Nagercoil, Kanyakumari District.

4. The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.

5. The Secretary,
Sree Devi Girls Higher Secondary School,
Kollemcode - 629 160,
Kanyakumari District.

+1 cc to MR.T.CIBICHAKRABORTHY, Advocate SR.No.74652

+1 cc to Special Government Pleader SR.No.78089

W.P. (MD) No.22936 of 2016
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SMA/CM-MSA/02.02.2017:2P/8C