



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.9827 of 2016

I.Selvi Chrishtin Mary

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep.by the Secretary to Government,
School Education Department,
Fort St.George, Chennai.
2. The District Elementary Educational Officer,
Tirunelveli.
3. The Assistant Elementary Educational Officer,
Melaneelithanalloor,
Sankarankoil Taluk,
Tirunelveli District.
4. The Superintendent,
R.C.Schools,
Palayamkottai,
Thembavani Thottam,
Tirunelveli - 627 011.
5. The Correspondent,
R.C.Primary School,
Melailandaikulam,
Sankarankoil Taluk,
Tirunelveli District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 2nd respondent in Oo.Mu.No.3506/A5/2015 dated 07.11.2015 and quash the same and further directing the respondents No.2 and 3 to approve the petitioner's appointment dated 12.03.2015.

For Petitioner
For RR - 1 to 3

: Mr.R.Balakrishnan
: Mr.T.Gunaseelan Muthiah
Government Advocate
: No Appearance

**ORDER**

This Writ Petition has been filed by the petitioner for the issuance of a Writ of Certiorarified Mandamus, challenging the impugned order passed by the second respondent dated 07.11.2015 and consequently direct the respondents 2 and 3 to approve the appointment of the petitioner with effect from 12.03.2015.

2. The brief facts which are necessary for the disposal of the writ petition are as follows:

2.1.The petitioner has completed Diploma in Teaching Education and she had qualification for being appointed as Secondary Grade Teacher. She was appointed as Secondary Grade Teacher in the fifth respondent School on 12.03.2015, in the vacancy caused due to the transfer of one A.John Benedit Jeyaraj. However, when the proposal was submitted by the fifth respondent to the second respondent on 20.03.2015, seeking approval of appointment of the petitioner, the second respondent returned the proposal to the fifth respondent by the impugned proceedings stating that fresh appointment can be made only after deploying the surplus teacher in the schools run by the same management or deployed in needy schools.

3.The fact that there is a vacancy in the fifth respondent school and that the petitioner was appointed in the sanctioned post by the fifth respondent school are not in dispute.

4.This Court has consistently taken a view that approval for appointment of a teacher in a particular school cannot be refused, even if there are surplus teachers available in other schools run by the same management. Even if there are surplus teachers in other schools run by the same management, the Educational Authorities can initiate action against those schools. However, this cannot be a reason to deny approval to the appointment made in another school, where the teacher was appointed as against regular vacancy.

5.The learned counsel appearing for the petitioner has relied upon the order passed by this Court in the case of ***T.Selvakumari Vs. The Director, Directorate of School Education, College Road, Chennai and others*** in ***WP.Nos.4246 and 16678 of 2004***.

6.Similarly, the learned Single Judge of this Court has also taken the same view in ***WP(MD)No.202 of 2014*** in the case of ***T.Antony Jeyanthi Vs. The Director, Directorate of School Education, College Road, Chennai and others***.

7.In view of the position settled in several decisions, the writ petition is allowed and the impugned order passed by the second respondent dated 07.11.2015 in Oo.Mu.No.3506/A5/2015 is quashed. The second respondent is directed to approve the petitioner's appointment in the fifth respondent school as Secondary Grade



Teacher w.e.f 12.03.2015 and disburse salary and other monetary benefits and service benefits within a period of six weeks from the date of receipt of a copy of this Order. No Costs.

WEB COPY

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St.George, Chennai.
2. The District Elementary Educational Officer,
Tirunelveli.
3. The Assistant Elementary Educational Officer,
Melaneelithanalloor,
Sankarankoil Taluk,
Tirunelveli District.

+ 1 CC TO Mr.R.BALAKRISHNAN, ADVOCATE IN SR No. 63427
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 63075

MJ

TE/SV/SAR-IV : 13/07/2017 : 3P/6C

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