



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P (MD) No. 9788 of 2018

and

W.M.P. (MD) .No. 8982 of 2018

St. Antonys High School,
Surulacode,
Kanyakumari District,
rep. by its Correspondent,
Sister. Maria Thankam.

.. Petitioner

Vs.

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

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

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, calling for the records relating to the impugned proceedings of the 2nd respondent herein in O.Mu.No.80/A2/2018, dated 16.02.2018 is illegal and quash the same and further direct the respondents 1 and 2 herein to grant approval for the appointment of St. Antonys High School, Surulacode, Kanyakumari District, w.e.f. 01.07.2017 with all attendant benefits including the arrears of salary and allowance within a stipulated time.

For Petitioner
For respondents

: Mr.S.Manikandan
: Mr.M.Murugan,
Government Advocate

ORDER

Heard Mr.S.Manikandan, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate, who accepted notice on behalf of the respondents.

2. The petitioner is a minority educational institution. They are aggrieved by the proceedings of the second respondent, dated 16.02.2018, by which the request made by the petitioner Management for approval of the appointment of Sr.C.Malarvizhi as B.T. Assistant in the retirement vacancy caused on account of the retirement of Tmt.C.Rosammal on 31.05.2017. The proposal was returned on four grounds: (i) The said teacher has not passed Teachers Eligibility Test (TET); (ii) The Genuinity Certificate has not been certified; (iii) The subject roster has not been



followed; and (iv) The subject roster has not been submitted to the department.

3. So far as the first reason is concerned, the same cannot be put against the petitioner, in view of the decision of the Hon'ble Supreme Court in **2014 (8) SCC 1 (Paramati Educational and Cultural Trust and others Vs. Union of Indian and others)** wherein it is held that TET is not applicable to the minority Educational Institutions. As regards the second ground is concerned, the petitioner would point out that Genuinity Certificate has been obtained from the Tamil Nadu Teachers Education University, dated 08.09.2017. So far as the 3rd and 4th grounds are concerned, they are mutually contradictory and according to the learned counsel for the petitioner, the subject roster has been properly followed and they are ready to produce the entire files.

4. For the above said reasons, this writ petition is allowed and the first ground viz., pass in TET, is set aside, and the petitioner is directed to re-present the approval papers by producing the Genuinity Certificate of the relevant files to justify that the subject roster has been properly followed. On such re-presentation of the proposal, the second respondent is directed to consider the same and pass orders on merits and in accordance with law, 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(crl side)

/True Copy/

Sub Assistant Registrar

To

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

+1cc to The Spl. Government Pleader Sr.No.64119

+1cc to Mr.S.Manikandan, Advocate Sr.No.64663

GCG

VB/KKR/SAR3/15/05/2018/2P/5C