



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:27.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
W.P. (MD) No.13197 of 2018

and

W.M.P (MD) No.12041 of 2018

WEB COPY

Eswaramoorthy Primary School,
rep. by its Manager,
Orumankulam,
Radhapuram Range,
Tirunelveli District.

... Petitioner

vs.

1.The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

2.The Additional Assistant Elementary
Educational Officer,
Radhapuram-627 111,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the records in regard to the impugned order of return made by the second respondent in A.Thi.Mu.No.319/Aa2/2018 dated 16.04.2018 and quash the same and consequently directing the first respondent to grant approval of appointment of Mrs.B.Mercy Beulah in the post of Headmistress in the pay scale of Secondary Grade Teacher and pay the same from the date of appointment I.e., 13.07.2017 within the time limit that may be stipulated by this Court.

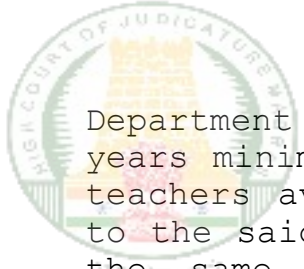
For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mrs.S.Srimathy
Special Government Pleader.

ORDER

The petitioner herein is the Management of the Minority Aided Primary School. In view of the vacancy which falls on the retirement of the Headmaster, one Mercy Beulah was appointed as Headmistress and the act of the Management was sought to be approved by the District Elementary Educational Officer.

2.Citing Section 20(3) of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, the request of approving the appointment, was rejected saying that the said Mercy Beulah has not attained five years teaching experience as Secondary Grade Teacher.

3.It is pointed out by the learned counsel representing the writ petitioner that by virtue of G.O (Ms) No.97, School Education



Department dated 05.07.2001, the Government has relaxed the five years minimum teaching experience condition if there is no suitable teachers available in the Secondary Grade Teacher cadre. Pursuant to the said Government Order, several writ petitions were filed and the same were allowed wherein persons who were appointed as Headmaster/Headmistress of middle school without five years teaching experience, but satisfy the other required educational qualification were allowed to continue as Headmaster/Headmistress on condition that till their attaining of five years teaching experience, they will be paid only salary of the Secondary Grade Teacher.

4.The learned counsel appearing for the petitioner would submit that the similar order passed pursuant to the G.O (Ms) No.97, School Education Department, dated 05.07.2001 may be passed in the case of Mercy Beulah, Headmistress, Eswaramoorthy Primary School.

5.The learned Special Government Pleader appearing for the respondents has filed a counter stating the relaxation of the rule can be done only by the Government but not by the District Elementary Educational Officer and reading of G.O (Ms) No.97, School Education Department, dated 05.07.2001 clearly indicates that the Government has already relaxed the rule and only implementation of the provision of the rule has to be carried out.

6.The counter filed by the respondents is not in consonance with the terms of the G.O (Ms) No.97 and ruling of this Court in earlier proceedings particularly, in W.A (MD) No.1119 of 2014 dated 29.04.2015.

7.Accordingly, this Writ Petition is allowed. The impugned order of return made by the second respondent in A.Thi.Mu.No.319/Aa2/2018 dated 16.04.2018 is quashed. The first respondent is directed to consider the proposal sent by the petitioner herein for approving the appointment of Mercy Beulah as Headmistress of the petitioner's school in accordance with G.O (Ms) No.97, dated 05.07.2001 and the other connected rules and pass appropriate orders within a period of four months. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To:

1.The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.



2.The Additional Assistant Elementary
Educational Officer,
Radhapuram-627 111,.
Tirunelveli District.

- 1 CC TO Mr.G.Thalaimutharasu , ADVOCATE IN SR No. 97260.
- +1 cc to Special Government Pleader, SR.No.97653.

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