



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.14851 of 2018

and

W.M.P. (MD) No.13394 of 2018

The Correspondent,
St. Bernadett's Higher Secondary School
Mangalakundru, Mangalakundru Post,
Kanyakumari District - 629 178.

... Petitioner

Vs.

1. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District.
3. The District Educational Officer,
Kuzhithurai, Kanyakumari District.

4. Preesha

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd and 3rd respondents herein to approve forthwith the appointment of Tmt.M.Leetha Josebel as P.G.Assistant in Mathematics in the petitioner school w.e.f. The date of her appointment viz., 01.06.2016, with salary and all attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar for
M/s.Isaac Chambers

For Respondents : Mrs.S.Srimathy, Spl.G.P. For RR1-3

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the 2nd and 3rd respondents herein to approve forthwith the appointment of Tmt.M.Leetha Josebel as P.G.Assistant in Mathematics in the petitioner school w.e.f. The date of her appointment viz., 01.06.2016, with salary and all attendant benefits.

2.Heard Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers, learned Counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents 1 to 3. Since no adverse order is going to be passed against the fourth

respondent, notice to the fourth respondent is dispensed with.

3. The learned counsel appearing for the petitioner would submit that, the petitioner's school is a minority school, where as per the staff fixation order in the year 2016-17, a sanctioned post of P.G.Assistant (Maths) became vacant as the erstwhile incumbent one Michael Goerge retired on superannuation on 31.05.2016. Therefore, in that vacant post, one M.Leetha Josebel was appointed as P.G.Assistant (Maths) on 01.06.2016 and from that day, she has been working at the petitioner's school. The said appointment had been forwarded with the proposal for approval to the official respondents and the same was returned by the written memo dated 23.10.2017 of the third respondent for certain clarifications. After clarifying the same and rectifying the mistakes pointed out by the official respondents, the said proposal had been resubmitted once again on 15.02.2018 to the third respondent. Since, there is no other impediment for the third respondent to approve the appointment and the said resubmitted proposal since has been pending from February 2018, the learned counsel appearing for the petitioner would submit that, if a direction is given to the third respondent to consider and pass orders on the said resubmitted proposal with regard to the teacher's appointment on merits, within a time frame, the petitioner would be satisfied.

4. I have heard the learned Special Government Pleader appearing for the respondents 1 to 3, who would submit that, since some civil suit is pending, even otherwise, if the teacher's appointment in the petitioner's school as sought for in the proposal is to be approved, in view of the pendency of the civil suit, the same is not approved and it has been kept pending.

5. I have considered the submissions made by both sides.

6. No doubt, the fourth respondent seems to have filed civil suit, where, it is claimed by the petitioner that no interim order of stay or injunction has been granted restraining the official respondents from approving the appointment of the teacher. Moreover, since the school is the minority school, where, staff strength also has been fixed by the official respondents and with the sanctioned staff strength only, in the clear vacancy, the appointment has been made on 01.06.2016 and from that date, the appointee has been working in the school without any salary and there is no other impediment for the official respondents to consider the proposal for approval, this Court is of the view that the third respondent can independently consider the resubmitted proposal of the petitioner school dated 15.02.2018 and pass orders thereon, on merits with regard to the approval of the teacher.

7. In the result, the following order is passed in this writ petition:

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

The third respondent is directed to consider the resubmitted proposal of the petitioner's school dated



15.02.2018 with regard to the approval of the appointment of one M.Leetha Josebel as P.G.Assistant (Maths) from 01.06.2016 and pass orders thereon, approving the said appointment, if there is no other impediment for such approval. It is made clear that the said approval, if it is given, would be subject to the outcome of the decision to be made in the civil suit pending in this regard filed by the fourth respondent. The needful as directed above shall be undertaken by the third respondent, within a period of six weeks from the date of receipt of a copy of this order."

8.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District.
3. The District Educational Officer,
Kuzhithurai, Kanyakumari District.

+1cc to SPL.Govt.Pleader, Sr.No.72522

+1cc to M/s.Isaac Chambers, Advocate Sr.No.72669

ARUL

KM/SV/SAR2/12.12.2018/3P/6C

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