



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD) Nos.24088, 8429, 14064, 22424, 22440 of 2017,
2825 of 2014 and 5144 of 2010

and

W.A. (MD) No.65 of 2018

and

W.M.P. (MD) Nos.6425, 6426, 18547, 11000, 18739 of 2017
and M.P. (MD) No.1, 2 of 2014 and 2 of 2010

and

C.M.P. (MD) No.305 of 2018

A.JOY JEBAMALAR, ...PETITIONER IN WP (MD) No.24088/2017

THE CORRESPONDENT,
ST.TERESAS HIGHER SECONDARY SCHOOL,
VADAKANKULAM-627 116,
TIRUNELVELI DISTRICT. ...PETITIONER IN WP (MD) . 8429/ 2017

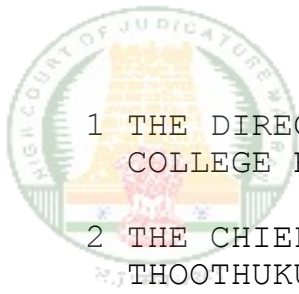
A.V.HIGH SCHOOL REP. BY THE SECRETARY,
S.ALAGAPPAN, S/O. SANKARAMA IYER,
KEELAPAVOOR, TENKASI,
TIRUNELVELI DISTRICT. ...PETITIONER IN WP (MD) . 14064/ 2017

THE CORRESPONDENT,
ST.JOSEPHS HIGHER SECONDARY SCHOOL,
ADAIKALAPURAM, TIRUCHENDUR TALUK,
TUTICORIN DISTRICT - 628 217. ...PETITIONER IN WP (MD) . 22424/ 2017

D.EBENEZER ...PETITIONER IN WP (MD) . 22440/ 2017

N.JANAKI, EAST STREET,
PALAYAM CHETTIKULAM, BURKITMANAGARAM TALUK,
PALAYAMKOTTAI TALUK,
TIRUNELVELI DISTRICT. ...PETITIONER IN WP (MD) . 2825/ 2014

THERKU KALLIKULAM CATHOLIC CHRISTION NADAR MAGAMAI SANGAM,
REP.BY ITS CORRESPONDENT,
S. ANANTHARAJA, KAMARAJ MIDDLE SCHOOL
THERKU KALLIKULAM, RADHAPURAM TALUK,
TIRUNELVELI DISTRICT. ...PETITIONER IN WP (MD) . 5144/ 2010



1 THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, CHENNAI-600 006.

2 THE CHIEF EDUCATIONAL OFFICER,
THOOTHUKUDI, THOOTHUKUDI DISTRICT.

3 THE DIST EDUCATIONAL OFFICER,
KOVILPATTI-628 501, THOOTHUKUDI DISTRICT.

... APPELLANTS IN WA(MD) . 65/ 2018

Vs.

1. THE STATE OF TAMIL NADU,
REB BY ITS SECRETARY,
SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI.

2. THE DIRECTOR OF ELEMENTARY EDUCATION,
CHENNAI.

3. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI.

4. THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
NANGUNERI, TIRUNELVELI DISTRICT.

5. THE CORRESPONDENT,
C.M.S.EVANGELICAL MIDDLE SCHOOL,
MARUTHAKULAM,
TIRUNELVELI DISTRICT.

...RESPONDENTS IN WP(MD) No.24088/2017

1`THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, CHENNAI-600 006

2 THE CHIEF EDUCATIONAL OFFICER,
TIRUNELVELI, TIRUNELVELI DISTRICT.

3 THE DISTRICT EDUCATIONAL OFFICER,
CHERANMAHADEVI AT TIRUNELVELI,
THIRUNELVELI DISTRICT-627 001.

... RESPONDENTS IN WP(MD) . 8429/ 2017

1 THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF SCHOOL EDUCATION,
ST.GEORGE FORT, CHENNAI.

2 THE DIRECTOR OF SCHOOL EDUCATION,
DPI COMPOUND, COLLEGE ROAD, CHENNAI.

3 THE CHIEF EDUCATIONAL OFFICER,
TIRUNELVELI, TIRUNELVELI DISTRICT.



4 THE DISTRICT EDUCATIONAL OFFICER,
TENKASI, TIRUNELVELI DISTRICT.

...RESPONDENTS IN WP(MD) . 14064/ 2017

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 - 600 006.

3 THE CHIEF EDUCATIONAL OFFICER,
TUTICORIN, TUTICORIN DISTRICT.

4 THE DISTRICT EDUCATIONAL OFFICER,
TUTICORIN, TUTICORIN DISTRICT.

...RESPONDENTS IN WP(MD) . 22424/ 2017

1 THE STATE OF TAMIL NADU,
REP. BY ITS SECRETARY,
SCHOOL EDUCATION DEPARTMENT, SECRETARIAT,
CHENNAI.

2 THE DIRECTOR OF ELEMENTARY EDUCATION,
CHENNAI.

3 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI.

4 THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
MANOOR, TIRUNELVELI DISTRICT.

5 THE CORRESPONDENT T.D.T.A.MIDDLE SCHOOL, NANJANKULAM,
TIRUNELVELI DISTRICT.

..RESPONDENTS IN WP(MD) . 22440/ 2017

1 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI.

2 THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.

3 THE CORRESPONDENT,
TDTA PRIMARY AND MIDDLE SCHOOL,
PALAYAM CHETTIKULAM, TIRUNELVELI DIST.

...RESPONDENTS IN WP(MD) . 2825/ 2014

1 STATE OF TAMIL NADU REP.BY ITS
SECRETARY TO GOVERNMENT SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI-9.



2 THE DIRECTOR OF ELEMENTARY EDUCATION,
CHENNAI-6.

3 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI DISTRICT.

4 THE ADDITIONAL ASSISTANT ELEMENTARY,
EDUCATIONAL OFFICER, RADHAPURAM,
TIRUNELVELI DISTRICT. ... RESPONDENTS IN WP(MD). 5144/ 2010

1 THE MANAGER AND CORRESPONDENT,
T.M.B.MCACOY RURAL HIGHER SECONDARY SCHOOL,
OTTAPIDARAM-628 401,THOOTHUKUDI DT.
...RESPONDENTS IN WA(MD). 65/ 2018

Prayer in WP(MD)No.24088/2017:

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to approve the appointment of the petitioner as Pre-vocational Instructor Tailoring from the date of appointment i.e., with effect from 02.02.2004 with all consequential benefits.

Prayer in WP(MD). 8429/ 2017 :

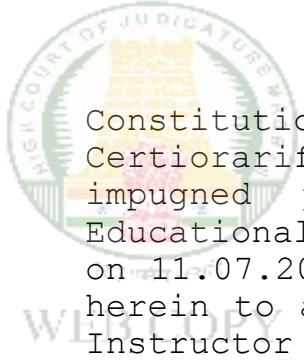
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ or any other appropriate order or direction in the nature of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent District Educational Officer in O.Mu.No.4036/Aa2/2016 dated 11.03.2017, quash the same and further direct the respondent herein to approve forthwith the appointment of V.Anusha as Pre-Vocational Instructor (Music) in the petitioners school w.e.f. 01.06.2016 by converting the post of Pre-Vocational Insturctor(carpenry) into Pre-Vocational Instructor (Music) and isburse the salary and all other attendant benefits.

Prayer in WP(MD). 14064/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 1st Respondent state government in G.O.Ms.No. 39 dated 21.03.2003 in so far the Petitioner School is concerned ant the consequential proceedings issued by the 4th Respondent District Educational officer in Na.Ka.No. 970/AA/2017 dated 28.06.2017 and quash the same and consequently direct the respondents to pass appropriate orders permitting the conservation of the post of instructor in weaving into instructor in sewing with all other consequential service and monetary benefits w.e.f.01/06/2015.

Prayer in WP(MD). 22424/ 2017 :

Writ Petition is filed under Article 226 of the



Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent District Educational Officer vide Na.Ka.No.3430/Aa3/17 dated .06.2017 (signed on 11.07.2017) quash the same and further direct the 4th respondent herein to approve the appointment of Sr.J.Infenta as Pre Vocational Instructor (Sewing) in the petitioner school w.e.f. 08.06.2017 onwards with salary and other attendant benefits.

Prayer in WP(MD). 22440/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents to approve the appointment of the petitioner as Prevocational Instructor Carpenter from the date of appointment i.e. with effect from 07.06.2005 with all consequential benefits.

Prayer in WP(MD). 2825/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to order passed by the 2nd respondent in his Proceedings in O. Mu. No.829/A1/2012 dated 18.05.2012 and quash the same and direct the respondents to approve the appointment of the petitioner as Vocational Instructor in Tailoring from the date of appointment from 15.12.2008 and confer all consequential benefits.

Prayer in WP(MD). 5144/ 2010 :

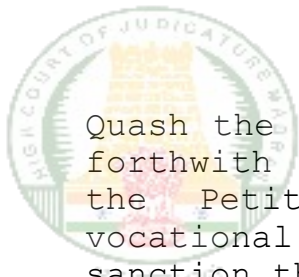
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus or anyother appropriate writ or order or direction in the nature of Writ calling for the records pertaining to the order passed by the first respondent in G.O.Ms.No.39 School Education Department dated 21.3.2003 in so far as clause 7 of the Government order particularly denial of conversion and the consequential order passed by the fourth respondent in his proceedings in A.Thi.Mu.No.1002/a1/09 dated 5.12.2009 and quash the same and direct the respondents to approve the appointement of A. Juliet as a Craft Instructor in Tailoring from the date of appointment and confer all the consequential benefits.

Prayer in WA(MD). 65/ 2018 :

Writ Appeal filed under clause 15 of the Letters Patent, as against the order dated 08/08/2017 in WP(MD).No.22609 of 2016 on the file of this Court.

Prayer in WP(MD). 22609/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent District Educational Officer in Na.Ka.No. 3893/A4/2016 dated 00.10.2016,



Quash the same, and further direct the respondent herein to approve forthwith the appointment of the Sewing Mistress N.Deva Kumari in the Petitioner -school w.e.f. 01.06.2016 by converting the vocational post of Agriculture teacher into that of Sewing and sanction the salary and all other attendant benefits.

WEB COPY

APPEARANCE FOR PETITIONER:

WP(MD)No.24088 of 2017 : Mr.K.Hemakarthiskeyan
WP(MD)No.8429 of 2017 : M/s.AMALA FOR M/S.ISAAC CHAMBER
WP(MD)No.14064 of 2017 : Mr.S.CHELLAPANDIAN
WP(MD)No.22424 of 2017 : Mr.A.AJITH GEETHAN
WP(MD)No.22440 of 2017 : Mr.V.PANNER SELVAM
WP(MD)No.2825 of 2014 : Mr.V.PANNER SELVAM FOR
M/S.C.S.ASSOCIATES,
WP(MD)No.5144 of 2010 : Mr.V.PANNER SELVAM FOR
M/S.C.S.ASSOCIATES,
WA(MD)No.65 of 2018 : Mr.S.DAYALAN,
GOVERNMENT ADVOCATE (FOR APPELLANT)
: M/s.AMALA FOR
M/S.ISACC CHAMBER (FOR RESPONDENT)

FOR RESPONDENT IN WPs

: MR.V.R.SHANMUGANATHAN
SPECIAL GOVERNMENT PLEADER for
RR1 TO 4 IN WPS.24088,14064,22424,
22440/2017, 5144/2010
RR1 TO 3 IN WP(MD)NO.8429/2017
RR1 TO 2 IN WP(MD)NO.2825/2014

COMMON ORDER

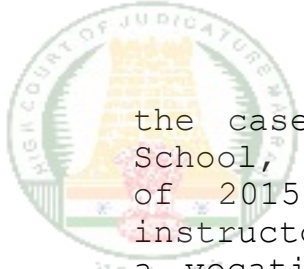
[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard the submissions made by the learned counsel appearing for the parties concerned.

2.In these cases, the main issue involved is whether the post of Vocational Instructor can be converted to other posts or whether the Government was permitting the conversion only between sewing and music. This issue was already considered by this Court in W.P.(MD) No.8998 of 2018 ect., batch dated 20.02.2018. The operative portion of the order reads as follows:-

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

"4.This question was considered by the Division Bench in



the case of The Correspondent, St.Britto Higher Secondary School, Vs. State of Tamil Nadu and others in W.P.(MD)No.1569 of 2015, wherein the vacancy in the post of vocational instructor in Weaving was accommodated with a candidate, who is a vocational instructor in Drawing. This Court, after taking into consideration the various Government Orders, relied on by the respondents, allowed the Writ Petition by order dated 20.02.2018. The operative portion of the order reads as follows:-

"...4.In our considered view, on a reading of G.O.Ms.No.39, one gets an impression that there is an absolute ban, however the object of the Government Order for restricting the conversion between two posts is not very clear. In any event, if the Government Order is read as a whole, it appears that the intention of the Government is to consider as to whether there is a need for conversion of the post in a particular institution. But, it has not been stipulated explicitly as the preamble of the Government Order says that conversion can be made only between Sewing and Music.

5. We are of the considered view that the Government Order should be read down, bearing in mind the need of the Students and since Vocational instruction has been found to be a very important particularly in the subject Agriculture. The Government should enable the Institution to decide upon what would be the need and what would be the requirement for the particular Institution. In the case of The State of Tamil Nadu and others Vs. P.Bella Fernando and another in W.A.(MD)No.421 of 2017, dated 19.04.2017, the Division Bench to which one of us was a party (T.S.S.J), considered the similar question as to whether the post of pre-vocational Instructor in Agriculture could have been filled up with a person possessing qualification in Sewing, without obtaining prior approval from the Government.

6. The Court, after considering the facts of the case, wherein it was stated that the School is situated in a costal area and the lands have become saline and the lands are unfit for raising crops and owing to that there were repeated requests from the Parents Teachers Association to the Management to introduce the Subject Sewing. This Court opined that the action of the Management cannot be faulted. It was pointed out that though it may be true that prior approval has not been obtained by the Management before the appointment of Prevocational Instructor in Sewing, noted that what is important to be seen is that two posts which has been sanctioned is the post of pre-vocational instructor, though the subjects may be different such as Agriculture, Weaving, Sewing and Music, it was held considering the factual situation pleaded by the Management, there can be no serious error



committed by the Management in accommodating the pre-vocational instructor in Sewing instead of prevocational Instructor in Agriculture. Further, similar orders of appointment which were approved by the Department were also referred. The facts of the present case is no different from what was dealt by the Division Bench in the case of the State of Tamil Nadu Vs. P.Bella Fernando (supra).

7. Therefore, we are of the firm view that the conditions stipulated in G.O.Ms.No.39, dated 21.03.2003 should be read down to mean that the predominant aspect which has been considered is the need for the particular branch of vocational instruction and this need should be decided by the Institution considering the demand of the students / parents etc. Thus, the stand taken in the impugned communication dated 30.07.2014 is not tenable.

8. For the above reasons, the Writ Petition is allowed and the impugned proceedings are set aside and the respondents are directed to consider and approve the appointment of the pre-vocational instructor in Drawing in the post of pre-vocational instructor which was already sanctioned and fell vacant on account of the retirement of Thiru S.Karunakaran. Such the appointment of the new incumbent shall be approved from the date on which, he was appointed i.e., on 26.03.2014. The above direction be complied with within a period of eight weeks from the date of receipt of a copy of this order. No costs."

3.Though the prayers sought for in these cases are slightly different in the sense, in certain cases the petitioners sought writs of certiorari and in certain cases the petitioners sought writs of mandamus, the legal issue is being identical, all the cases are squarely covered by the above referred decision. Accordingly, these Writ Petitions are disposed of and Writ Appeal stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-I)

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Sub Assistant Registrar

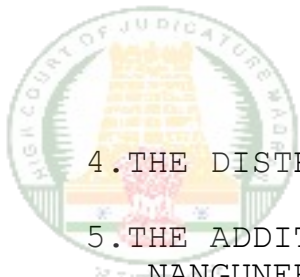
To

1.THE SECRETARY, STATE OF TAMIL NADU, SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI.

2.THE SECRETARY TO THE GOVERNMENT, DEPARTMENT OF SCHOOL EDUCATION,
ST.GEORGE, FORT.CHENNAI.

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

3.THE DIRECTOR OF ELEMENTARY EDUCATION, CHENNAI.



4. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER, TIRUNELVELI.

5. THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
NANGUNERI, TIRUNELVELI DISTRICT.

6 THE DIRECTOR OF SCHOOL EDUCATION,
DPI COMPOUND, COLLEGE ROAD, CHENNAI-600 006

7 THE CHIEF EDUCATIONAL OFFICER,
TIRUNELVELI, TIRUNELVELI DISTRICT.

8 THE DISTRICT EDUCATIONAL OFFICER,
CHERANMAHADEVI AT TIRUNELVELI,
TIRUNELVELI DISTRICT-627 001.

9 THE CHIEF EDUCATIONAL OFFICER,
TUTICORIN, TUTICORIN DISTRICT.

10 THE DISTRICT EDUCATIONAL OFFICER,
TUTICORIN, TUTICORIN DISTRICT.

11 THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
MANOOR, TIRUNELVELI DISTRICT.

12 THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.

13 THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
RADHAPURAM, TIRUNELVELI DISTRICT.

14 THE DISTRICT EDUCATIONAL OFFICER, TENKASI, TIRUNELVELI DISTRICT.

+3CC to Mr.V.Panneer Selvam, Advocate, SR.Nos. 53187 to 53189

+2CC to M/s.Isaac Chambers, SR.Nos. 52814 and 52813

+1CC to M/s.Hema Karthikeyan, Advocate, SR.No. 53180

+1CC to Mr.S.Chellapandian, Advocate, SR.No. 52602

+1CC to Mr.A.Ajith Geethan, Advocate, SR.No. 52726

ORDER MADE IN
W.P(MD)No.24088 of 2017 and etc batch
02.03.2018

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AM/KKR/SAR 2/03.05.2018/9P/23C