

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 23.04.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)No.5576 of 2018****and****W.M.P(MD)No.5472 of 2018**

The Correspondent,
Providence Higher Secondary School,
Ritapuram - 629 159,
Kanyakumari District.

... Petitioner

vs.

1.The Director of School Education,
College Road, Chennai - 600 006.

2.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

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

... Respondents

Prayer: Writ 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 impugned proceedings issued by the third respondent District Education Officer vide O.Mu.No.806/A1/2018, dated 22.02.2018, quash the same and further direct the third respondent District Educational officer herein to approve forthwith the appointment of K.Fathima Gladis as BT Assistant (Maths) in the petitioner's school w.e.f. 05.07.2017 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

<https://hcservices.ecourts.gov.in/hcservices/>
This writ petition has been filed to quash the impugned proceedings of the third respondent, dated 22.02.2018, and direct the third respondent to approve forthwith the appointment of



K.Fathima Gladis as BT Assistant (Maths) in the petitioner-school with all attendant benefits.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader for the respondents.

3. The learned senior counsel appearing for the petitioner submitted that the petitioner-school has appointed K.Fathima Gladis as a BT Assistant (Maths) and seeking approval of the said incumbent, the petitioner-school submitted a proposal to the third respondent on 07.02.2018. The third respondent returned the proposal by directing the petitioner-school to re-submit the proposal along with No Objection Certificate from the CEO for granting permission to fill up the post.

4. The learned senior counsel appearing for the petitioner further submitted that the issue involved in this writ petition is squarely covered by the earlier order of this Court in ***The Manager and Correspondent, Carpenter Street Middle School, Gopalsamy Street, Tuticorin, Tuticorin District - 628 001 Vs. The State of Tamil Nadu, rep.by its Secretary, Department of School Education, Fort St. George, Chennai - 600 009 [W.P(MD)No.12876 of 2017, decided on 12.07.2017]*** and prayed for passing similar orders in this writ petition also. It would be useful to refer to the operative portion of the said order, which reads as follows:

"5. When it is well settled legal position that in the matters of appointment of teachers in a minority educational institution, the teachers can be appointed even without passing the Teachers Eligibility Test, the present impugned order directing the petitioner minority school to enclose the certificate of pass in Teachers Eligibility Test by the Secondary Grade Teacher Tmt.E.Mispa Georgina, is wholly unsustainable. Therefore, the same is set aside and the second respondent is hereby directed to forward the proposal sent by the petitioner-school to the third respondent. On receipt of the same, the third respondent is directed to consider the said proposal and pass appropriate orders on the said proposal, within a period of four weeks therefrom."

5. In this case, the respondents are insisting to get 'No Objection Certificate' for approving such proposal, which act is unsustainable. The learned Special Government Pleader appearing for the respondents fairly conceded the submissions made on the petitioner's side.

6. In view of the above, the impugned order of the third respondent, dated 22.02.2018 is set aside and the third respondent is directed to consider the said proposal and pass appropriate orders on the said proposal, within a period of four weeks from the date of receipt of a copy of this order.



7.The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD I)

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// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director of School Education,
College Road, Chennai - 600 006.

2.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

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

+1cc to M/S.ISAAC CHAMBERS,Advocate, SR.No.62243

+1cc to M/s.Special Government Pleader,SR.No.62735

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