

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

DATED: 26.04.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)Nos.10358, 10359 & 10360 of 2019**

WEB COPY

B.Revathy ... Petitioner in W.P(MD)No.10358/2019
P.Selvam ... Petitioner in W.P(MD)No.10359/2019
A.Vimali Bakym ... Petitioner in W.P(MD)No.10360/2019

vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.
- 2.The Director of School Education,
O/o.The Director of School Education Office,
College Road, Chennai.
- 3.The Chief Educational Officer,
O/o.The Chief Educational Office,
Thallakulam, Madurai,
Madurai District.
- 4.The District Educational Officer,
O/o.The District Educational Office,
Near Govt. Higher Secondary School,
Usilampatti, Madurai District.

... Respondents in all W.Ps'

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the fourth respondent to approve forthwith the appointment of the petitioners as B.T Assistant (Maths), Physical Education Teacher and B.T Assistant (Tamil) in the Nadar Saraswathy Higher Secondary School, Usilampatti, Madurai District with effect from 17.02.2011, 17.02.2011 and 03.06.2011 respectively in the light of the order passed by this Court in W.A(MD)No.183 to 188 of 2016, dated 22.12.2016, confirming the order, dated 15.12.2015 made in W.P(MD)Nos.22514 to 22519 of 2015 by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
(in all W.Ps')

For Respondents : Mrs.S.Srimathy,
(in all W.Ps') Special Government Pleader.

**COMMON ORDER**

These writ petitions have been filed seeking a direction to the fourth respondent to approve forthwith the appointment of the petitioners as B.T B.T Assistant (Maths), Physical Education Teacher and B.T Assistant (Tamil) in the Nadar Saraswathy Higher Secondary School, Usilampatti, Madurai District with effect from 17.02.2011, 17.02.2011 and 03.06.2011 respectively in the light of the Judgment passed by this Court in W.A(MD)Nos.183 to 188 of 2016, dated 22.12.2016, confirming the order, dated 15.12.2015 made in W.P(MD) Nos.22514 to 22519 of 2015 by this Court.

2.Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader for the respondents. By consent, the Writ Petitions are taken up for final disposal at the stage of admission itself.

3.The brief facts of the case are as follows:-

(i) The petitioners were appointed as B.T Assistant (Maths), Physical Education Teacher and B.T Assistant (Tamil) in Nadar Saraswathy Higher Secondary School, Usilampatti and seeking approval of the said incumbents, the said School submitted a proposal to the third respondent and the third respondent, vide proceedings, dated 28.12.2007, reiterated that the School is a minority institution. Subsequent to the revised proposal, the fourth respondent once again rejected the same on the ground that there is a serious dispute as to the Correspondent-ship of the School.

(ii) Similarly placed persons like that of the petitioners filed W.P(MD)Nos.22514 to 22519 of 2015 and this Court, by interim order, dated 15.12.2015 granted temporary approval. As against the same, the Government filed W.A(MD)Nos.183 to 188 of 2016, wherein, the Division Bench of this Court confirmed the order of the learned single Judge. On the basis of the same, their appointments were approved. As the petitioners are also similarly placed persons, they submitted representations, dated 11.12.2017 to the respondents. Since the same have not been considered so far, the petitioners have filed the present Writ Petitions.

4.The learned counsel appearing for the petitioners submitted that the issue involved in these writ petitions are squarely covered by the earlier Judgment of this Court in ***The Secretary to Government, School Education Department, Secretariat, Chennai - 9 Vs. E.Manimuthu [W.A(MD)Nos.183 to 188 of 2016, dated 22.12.2016]*** and prayed for passing similar orders in these writ petitions also. It would be useful to refer to the operative portion of the said order, which reads as follows:

<https://hcservices.ecourts.gov.in/hcservices/> "5. In view of the above declaration by the Civil Court that the second respondent school is a minority institution, according to the first respondent, the 2nd



respondent school is not required to follow the procedure contemplated under Rule 15(4) of the Tamil Nadu Recognized Private School (Regulation) Rules. In this regard, the learned senior counsel for the first respondents relied on the decision of the another Division Bench of this Court in **Eka Ratchagar Sabai Higher Secondary School, Tuticorin and others Vs. K.Sumathi and another** reported in (2008) 1 MLJ 322, which reads as follows;

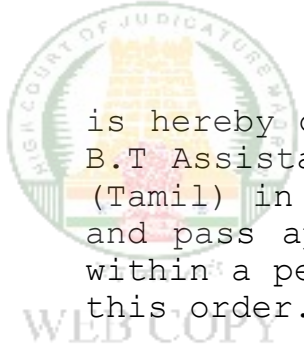
"In the light of the observations made by the Supreme Court in **Secy., Malankara Syiran Catholic College Vs. J.Jose** (2007) 1 SCC 386, the provisions which lay down qualification for appointment of teachers are obviously required to be followed; whereas the procedure contemplated in Rule 15(4) of the Rules severely constricting the scope of the discretion of the management in appointment of teachers and confining the same to a particular source would be violative of Article 30(1). Therefore,, such provisions are not required to be followed by the minority institutions. In view of the above, this Court cannot agree with the view expressed by the learned Single Judge under the impugned judgment and such decision is liable to be overturned."

Thus, the learned senior counsel appearing for the first respondents submitted that the interim order passed by the learned Single Judge of this Court need not be interfered with.

6. It is an admitted fact that the second respondent school has been declared as a minority institution by the competent Civil Court and the said decision has become final and the same is binding upon the State Government. The appointment of the first respondents was also made by the Correspondent, whose correspondent-ship was already approved by the fourth respondent. Thus, *prima facie* satisfied with the facts and circumstances of the case, the learned Single Judge has granted the interim order. We do not find any infirmity or illegality in the interim order granted by the learned Single Judge. Hence, all these appeals are liable to be dismissed and accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed."

5.The learned Special Government Pleader appearing for the respondents fairly conceded the submissions made on the petitioners' side.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and following the aforesaid order, the fourth respondent



is hereby directed to approve the appointment of the petitioners as B.T Assistant (Maths), Physical Education Teacher and B.T Assistant (Tamil) in the Nadar Saraswathy Higher Secondary School, Usilampatti and pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7.All the Writ Petitions are disposed of accordingly. No costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS-)

Ps

To

1.The Secretary,
the State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2.The Director of School Education,
O/o.The Director of School Education Office,
College Road, Chennai - 600 009.

3.The Chief Educational Officer,
O/o.The Chief Educational Office,
Thallakulam, Madurai,
Madurai District.

4.The District Educational Officer,
O/o.The District Educational Office,
Near Govt. Higher Secondary School,
Usilampatti, Madurai District.

+3 CC to M/s.AJMAL ASSOCIATES, Advocate
(SR-63780, 63779, 63778, [F] dated 29/04/2019)

+1 CC to M/s.SPL GP (SR-64058[F] dated 29/04/2019)

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