



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:03.04.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.3994 of 2019
and
W.M.P.(MD)No.3089 of 2019

St.Mary's Girls High School,
Represented by its
Correspondent,
Katchanavillai,
Tuticorin District.

... Petitioner

vs.

1.The Chief Educational Officer,
District Educational Office,
Thoothukudi.

2.The District Educational Officer,
District Educational Office,
Thoothukudi.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the first respondent in O.Mu.No. 4064/AA3/2018, dated 17.09.2018 and quash the same and further directing the respondents herein to approve forthwith the appointment of A.Sahaya Rani as B.T. Assistant in the petitioner school w.e.f. 28.07.2016 with all the consequential benefits.

For Petitioner : Mr.P.Edin Brough

For Respondents : Mrs.S.Srimathy
Additional Government Pleader

ORDER

The Writ Petition is filed seeking to quash the order of the first respondent in O.Mu.No. 4064/AA3/2018, dated 17.09.2018 and to direct the respondents to approve forthwith the appointment of one A.Sahaya Rani as B.T. Assistant in the petitioner school w.e.f. 28.07.2016 with all the consequential benefits.

2. Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.



3. A brief facts of the case are as follows:

The petitioner school is a minority school. The post of Secondary Grade Teacher fell vacant, due to retirement of one K.Suseela Mary on 31.05.2016. The said post was automatically got upgraded as B.T. Assistant as per G.O.Ms.No.79, dated 14.06.2002 and G.O.Ms.No.99, dated 27.06.2006. On 28.07.2016, one A.Sahaya Rani was appointed as B.T.Assistant. Thereafter, the petitioner school submitted a proposal to the second respondent on 28.03.2017 for conversion from the post of Secondary Grade Teacher to B.T. Assistant and seeking approval of the appointment of the said A.Sahaya Rani. The second respondent, by impugned proceedings, dated 17.09.2018, denied the approval on the ground that the appointment has been made before obtaining permission for conversion of the post, against which, the present Writ Petition has been filed.

4. The learned Counsel appearing for the petitioner submitted that this issue is directly covered by a judgment of a Division Bench of this Court in ***the Government of Tamil Nadu represented by the Secretary to Government Vs. J.Remila and another*** reported in ***2018-1-Writ L.R.410***, wherein the Division Bench of this Court held as follows:

27.Furthermore, it is not the contention of the Appellants that the First Respondent is not qualified and eligible to hold the B.T. Assistant (Social Science) post. It is also not the contention of the Appellants that there is no vacancy in the Second Respondent Institution for a B.T. Assistant (Social Science) post. In fact, Rule 6 (2) of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977, does not stipulate that appointments can be made only after getting prior approval from the concerned authorities. It only says that for the eligibility of grant to a Minority Institution, all appointments made by the Minority Institution will have to be approved by the concerned authorities. In the case on hand, the appointment of the First Respondent was made by the Second Respondent Institution and after the appointment, the Second Respondent Institution sought for approval from the concerned authorities, which is in agreement with Rule 6 (2). Further, it is not the case of the Appellants that they have stopped giving grant to the Second Respondent Institution due to the breach of Rule 6 (2) of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977. Therefore, the submission of the Learned Special Government Pleader that the Second Respondent Institution has not followed Rule 6 (2) of the Tamil Nadu Minority Schools



(Recognition and Payment of Grant) Rules, 1977, cannot be accepted by this Court.

In the light of the said decision, the learned Counsel sought appropriate orders in favour of the petitioner.

5. The learned Special Government Pleader appearing for the respondents fairly submitted that the above said decision is applicable to the present case.

6. In view of the above, following the above said decision cited supra, the impugned order dated 17.09.2018 passed by the first respondent stands quashed. The respondents are directed to consider the claim of the petitioner and pass appropriate orders, on merits, within a period of eight weeks from the date of receipt of a copy of this order.

7. In the result, the Writ Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar (CS)

To

1. The Chief Educational Officer,
District Educational Office,
Thoothukudi.

2. The District Educational Officer,
District Educational Office,
Thoothukudi.

+1 CC to M/s.P.EDIN BROUGH, Advocate (SR-58882[F] dated 04/04/2019)

+1 CC to M/s.SPL GP (SR-59129[F] dated 04/04/2019)

W.P (MD) No. 3994 of 2019

and

W.M.P. (MD) No. 3089 of 2019

03.04.2019