



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD) No.5401 of 2019

R.Emerson Udaisingh
Manager & Correspondent,
C.M.High School, T.R.Naidu Street,
Tuticorin, Tuticorin District.

... Petitioner

vs.

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 - 628 002,
Tuticorin District.

4.The District Educational Officer,
Tuticorin at Pudukottai,
Tuticorin District.

... 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 relating to the impugned proceedings issued by the 4th respondent District Educational Officer in O.Mu.No.6681/ Aa1/2018 dated 25.02.2019 quash the same and further direct the 3rd and 4th respondents to approve forthwith the appointment of Tmt.B.Antony Mercy Maria Hemi as BT Assistant (Science) in the petitioner school w.e.f. the date of her appointment viz. 02.07.2018 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.Ragatheeshkumar
for M/s.Isaac Chambers

For Respondents : Mrs.S.Srimathy
Special Government Pleader

O R D E R

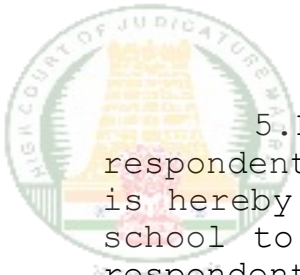
This writ petition has been filed to quash the impugned proceedings of the fourth respondent dated 25.02.2019 and direct the respondents 3 and 4 to approve the appointment of one B.Antony Mercy Maria Hemi as BT Assistant(Science) in the petitioner-school with all attendant benefits.

2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader for the respondents. By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3.The learned counsel appearing for the petitioner submitted that the petitioner-school has appointed one B.Antony Mercy Maria Hemi as a BT Assistant(Science) and seeking approval of the said incumbent, the petitioner-school submitted a proposal to the Chief Educational Officer on 18.07.2018 through proper channel viz., the District Educational Officer. The District Educational Officer, without forwarding the proposal to the Chief Educational Officer, passed the impugned order dated 25.02.2019, denying approval to the appointment for want of pass in Teachers Eligibility Test (TET), which is not applicable to the petitioner-school.

4. The learned Counsel 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. Following the same, the impugned order of the fourth respondent dated 25.02.2019 is set aside and the fourth 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.

6. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Secretary,
State of Tamil Nadu,
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 - 628 002,
Tuticorin District.
4. The District Educational Officer,
Tuticorin at Pudukottai,
Tuticorin District.

+1CC TO MR. ISAAC CHAMBERS, Advocate Sr. No. 52752
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 52654

W.P(MD) No.5401 of 2019
07.03.2019

TR (15.03.2019) 3P 7C