



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2019

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P (MD) No. 8395 of 2017

and

W.M.P (MD) No. 6395 of 2017

The Correspondent,
St. Xavier's Middle School,
Irudhayakulam,
Vickramasingapuram,
Tirunelveli District - 627 425.

... 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 Elementary Education,
College Road, Chennai - 600 009.

3. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

4. The Assistant Elementary Educational Officer,
Ambasamudhiram,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the third respondent/District Elementary Educational Officer to approve forthwith the appointment sister B.Anitha as Secondary Grade Teacher in the petitioner's School with effect from the date of her appointment viz., 01.07.2011 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
M/S.Isaac Chambers

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

ORDER

This writ petition has been filed seeking a direction to the third respondent/District Elementary Educational Officer to approve forthwith the appointment of B.Anitha as Secondary Grade Teacher in the petitioner's School with effect from the date of her appointment viz., 01.07.2011 with all attendant benefits including the arrears of salary and allowance.



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 one B.Anitha as Secondary Grade Teacher and seeking approval of the said incumbent, the petitioner-school submitted a proposal to the third respondent on 29.10.2010 through proper channel viz., the fourth respondent. The fourth respondent returned the proposal stating that the said B.Anitha did not possess Teachers Eligibility Test (TET) qualification, which is not applicable to the petitioner-school.

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. The learned Special Government Pleader appearing for the respondents fairly conceded the submissions made on the petitioner's 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 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.



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

sd/
Assistant Registrar(CS-III)

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Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 600 009.
3. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
4. The Assistant Elementary Educational Officer,
Ambasamudhram,
Tirunelveli District.

+1 CC to M/s.ISAAC CHAMBERS, (SR-62245[F] dated 24/04/2019)
+1 CC to SPL GP (SR-62722[F] dated 25/04/2019)

W.P(MD)No.8395 of 2017
23.04.2019

ps
MK/17.05.2019/3P/7C