



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP(MD)No.7093 of 2016

and

WMP(MD)Nos.6026 to 6028 of 2016

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M.Anitha

... 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,
Chief Educational Office,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
District Educational Office,
Thuckalay,
Kanyakumari District - 629 163.

5.The Correspondent,
St. Mary Goretty Higher Secondary School,
Manalickarai - 629 164,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records on the file of the 4th respondent pertaining to its order bearing Oo.Moo.No.2664/A2/2014, dated 04.02.2016 and to quash the same and consequently direct the 4th respondent to approve the appointment of the petitioner as B.T Assistant (Tamil) with effect from the date of her appointment that is on 01.06.2012 and to grant all service and monetary benefits there from within a time frame that may be stipulated by this Court.

<https://hcservices.ecourts.gov.in/hcservices/>
For Petitioner
For Respondent

Nos. 1 to 4

: Mr.S.C. Herold Singh
: Mrs.S.Srimathy,
Special Government Pleader

**ORDER**

This writ petition has been filed seeking to quash the impugned Proceedings issued by the 4th respondent District Educational Officer in Oo.Moo.No.2664/A2/2014, dated 04.02.2016, and further direct the 4th respondent to approve forthwith the appointment of the petitioner as B.T Assistant (Tamil) in the 5th respondent school w.e.f. 01.06.2012 and to grant all service and monetary benefits

2. The grievance of the petitioner is that she was appointed as B.T. Assistant (Tamil) under the 5th respondent School on 01.06.2012 and the proposal sent by the school seeking approval of her appointment was returned on the ground that the petitioner has not enclosed certificate for passing of TET. Hence, the petitioner is before this Court, seeking to quash the same with consequential directions.

3. The learned Counsel for the petitioner submitted that the issue involved in this writ petition had already been settled by a decision of this Court, in the case of K.Vijila Vs The Secretary to Government, School Education Department and four others, in WP (MD)No.8110 of 2018 on 25.04.2018. The relevant portions of the above order read as follows:

"7.On perusal of the impugned order dated 26.02.2018, it is found that no other reason has been cited by the fourth respondent. As the reasons that the petitioner, who has been appointed, is not a qualified Teacher nor the way in which the appointment was made by the fifth respondent is not an approved method of appointment nor any other acceptable reason were given except to state that awaits the general guideline to be issued in this regard to the staff fixation and therefore, this proposal cannot be considered.

8.It is a fundamental principle that, once the Authority is acting in any particular issue, the date on which action is taken and order is passed what is the available legal position in law, rules, regulations, guideline etc., alone shall be a matter and in anticipation of any rule, law, guideline etc., no Authority can be expected to act.

9. Therefore, the impugned order also discloses as on date, all the impugned order (dated 26.02.2018) no such guideline as expected by the fourth respondent has been issued by the Government. Even today, it seems that no such guideline has been issued. Therefore, in anticipation of issuance of the guideline, the proposal of appointment of the petitioner can neither be withheld nor be rejected. Therefore, this Court has no hesitation to hold that the reason cited in the impugned order can



stand in the legal scrutiny. Hence, the same is liable to be quashed. Accordingly, it is quashed".

Hence, the learned Counsel for the petitioner prayed for a similar direction in this writ petition also

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4. The learned Counsel appearing for the respective respondents have no serious objection on the above submissions made by the learned Counsel for the petitioner.

5. Taking into consideration the submissions made on either side, and following the aforesaid order, the impugned order is quashed and the matter is remitted back to the 4th respondent for reconsideration of the proposal submitted by the 5th respondent. It is open to the fourth respondent to verify the educational qualification and other suitability of the petitioner for appointment to the post of B.T. Assistant (Tamil) in the 5th respondent School, on the basis of the rules available as on date and accordingly, pass orders thereon, within a period of six weeks from the date of receipt of a copy of this order.

6. The writ petition is disposed of, on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The 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,
Chief Educational Office,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
District Educational Office,
Thuckalay,
Kanyakumari District - 629 163.



5.The Correspondent,
St. Mary Goretty Higher Secondary School,
Manalikarai - 629 164,
Kanyakumari District.

+1cc to Mr.S.C.HEROLD SINGH, Advocate, SR.No.62212
+1cc to M/s.Special Government Pleader,SR.No. 62975

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