



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.10317 of 2018

and

W.M.P(MD)No.9340 of 2018

Tmt.J.Latha Rani

... Petitioner

Vs.

1.The Director of Elementary Education,
College Road,
Chennai-6.

2.The District Elementary Education Officer,
Kanyakumari District.

3.The Assistant Elementary Education Officer,
Karunkulam,
Kanyakumari District.

4.The Correspondent,
Rev.S.Mathias Memorial C.S.I.Primary School,
Arasakulam,
Thengapattanam,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records relating to the impugned order passed by the third respondent in A.Ni.Mu.No.26/18 dated 23.04.2018 and quash the same as illegal and consequently direct the first and second respondents to approve the petitioner's appointment in the post of Secondary Grade Teacher which has been made on 16.10.2017 in the fourth respondent school.

For Petitioner : Mr.G.R.Satish

For R1 to R3 : Mr.M.Karuppasamy,
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order passed by the third respondent in A.Ni.Mu.No.26/18 dated 23.04.2018 and quash the same as illegal and consequently, direct the respondents 1 & 2 to approve the petitioner's appointment in the post of Secondary Grade Teacher which has been made on 16.10.2017 in the fourth respondent school.



2. The petitioner was appointed as a Secondary Grade Teacher on 16.10.2017 in the sanctioned post in the fourth respondent school. The fourth respondent school is a minority institution. There are two sanctioned posts in the school i.e, one is Headmaster and another one is Secondary Grade Teacher. One Vimalabai, who was working as a Secondary Grade Teacher was promoted as Headmistress. The Secondary Grade Teacher post fell vacant. In the said sanctioned post, the petitioner was appointed by the fourth respondent on 16.10.2017. The fourth respondent sent proposal to the third respondent for approval of the petitioner on the same day. The third respondent returned the said proposal submitted by the fourth respondent on the ground that the petitioner has not passed the Teachers Eligibility Test. As per the letter dated 11.09.2018 issued by the Additional Secretary, Education Department and letter dated 28.07.2017 issued by the Ministry of Human Resources Development, New Delhi, the said return is erroneous. The issue whether the teacher appointed in Minority School passed Teachers Eligibility Test was considered by the Hon'ble Apex Court in ***Pramati Educational and Cultural Trust and others Vs. Union of India*** reported in ***2014(4) MLJ 486*** and the Division Bench Judgment in ***Secretary to Government v. S.Jeyalakshmi*** reported in ***2016(5) CTC 639***, wherein it was held that the teachers appointed in the schools run by the Minority Institution need not possess the Teachers Eligibility Test.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and perused the materials available on record.

4. In view of the above two judgments, the impugned order of the third respondent dated 23.04.2018 in A.Ni.Mu.No.26/18 is set aside. The fourth respondent is directed to resubmit the proposal for approving the appointment of the petitioner to the third respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the such proposal, the third respondent is directed to pass orders approving the appointment of the petitioner, if she is otherwise eligible.

5. Accordingly, the writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Director of Elementary Education,
College Road,
Chennai-6.

2.The District Elementary Education Officer,
Kanyakumari District.

3.The Assistant Elementary Education Officer,
Karunkulam,
Kanyakumari District.

+1 CC to M/s.GR.SATISH, Advocate (SR-96293[F] dated 06/11/2019)

+1 CC to M/s.SPL GP (SR-96686[F] dated 07/11/2019)

+1 CC to M/s.SPL.G.P (SR-15187[D] dated 15/11/2019)

W.P. (MD) No.10317 of 2018
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AM /sma/29/11/19/3p/7c