



WEB COPY

W.A.(MD)No.1115 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1115 of 2019

and

C.M.P (MD)No.9966 of 2019

and

WP (MD)No.3601 of 2019

1.The State of Tamilnadu,
Represented by its Secretary,
Department of School Education Department,
Fort St. George, Chennai - 600 009.

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Tuticorin, Tuticorin District.

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

... Appellants/Respondents

Vs.

1.I.Jesu Praba,
Bt Assistant (Tamil),
St. Joseph's Girls Higher Secondary School,
Sathankulam - 628 704,
Tuticorin District.

... Respondent/Petitioner

2.The Correspondent,
St. Joseph's Girls Higher Secondary School,
Sathankulam - 628 704,
Tuticorin District.

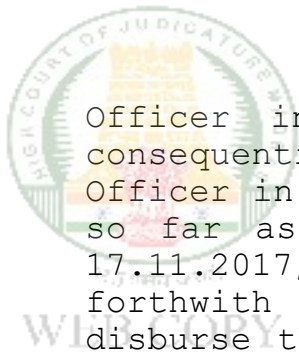
... Respondent/2nd Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 06.03.2019 in W.P(MD)No.3601 of 2019 and thereby allow the writ appeal.

Prayer in WP(MD) . 3601/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, calling for the record relating to the impugned proceedings issued by the 3rd respondent Chief Educational

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Officer in Moo. No.5278/A3/2017 dated 22.12.2017 and the consequential proceedings of the 4th respondent District Educational Officer in Pa.Mu.No.5553/A4/2018 dated --.01.2018, Quash the Same in so far as they approve the petitioners appointment only w.e.f., 17.11.2017, and further Direct respondents 3 to 4 to approve forthwith the petitioner's appointment w.e.f. 09.06.2014 and to disburse the grant -in-aid towards her salary and other attendant benefits.

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

For R-1 : Ms.Amala

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

This writ appeal has been filed by the State represented by its Secretary, Department of School Education and three others challenging the order passed in W.P(MD)No.3601 of 2019, dated 06.03.2019.

2. The first respondent herein filed the writ petition challenging the order passed by the third appellant, dated 22.12.2017, by which, approval of her appointment as BT Assistant (Tamil) with effect from 09.06.2014 was refused and approval was granted only with effect from 17.11.2017, when the Department permitted the management to convert the Post of Secondary Grade Teacher into that of BT Assistant in Tamil.

3. The first respondent also sought for a consequential direction to approve her appointment with effect from 09.06.2014 and disburse the grant-in-aid to her and other attendant benefits.

4. The learned Single Judge following the judgment of the Honourable Division Bench in WA(MD)No.828 of 2014 etc., batch, dated 22.04.2016, allowed the writ petition. The appellants are aggrieved by the said order.

5. We have heard Mrs.S.Srimathy, learned Special Government Pleader appearing on behalf of the appellants and Ms.Amala, learned counsel appearing on behalf of the first respondent.

6. The short question which arises for consideration is whether the second respondent Institution could have converted the Post of Secondary Grade Teacher into that of BT Assistant(Tamil), without obtaining prior approval from the Government.

7. The second question would be whether the upgradation of the Post as BT Assistant will become automatic and whether the



second respondent could have followed the subject roster, which has been prescribed in G.O.Ms.No.100, School Education Department, dated 27.06.2003.

8. These questions were considered by the Honourable Division Bench in the case of the *Director of School Education and two others vs. S.Vanitha and two others* in W.A(MD)No.828 of 2014 etc., batch, vide judgment dated 22.04.2016. In the said decision, the Court after taking note of the earlier decisions dismissed the writ appeal filed by the Government.

9. The learned Single Bench had followed the said decision and allowed the writ petition. The contentions raised by the learned Special Government Pleader before us are identical to the contentions which were raised before the Honourable Division Bench in the case of *S.Vanitha* referred to supra.

10. Furthermore, there are other decisions of the Honourable Division Bench in W.A(MD)No.716 of 2014, dated 04.04.2017, in W.A (MD)No.1406 of 2014 dated 26.04.2017 and the recent decision of the Honourable Division Bench in the case of *the Government of Tamil Nadu and others vs. J.Remila and another* reported in 2018-1 Writ L.R. 410. In the said decision, all the earlier decisions as well as the right of the Minority Institution to appoint Post as enshrined in Article 30(1) of the Constitution of India, have been noted and the appeal filed by the Government was dismissed.

11. In the light of the above decisions, we find no reason to interfere with the order passed by the learned Single Bench. Therefore, the writ appeal fails and is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Pm

To

1.The Secretary,
Department of School Education Department,
Fort St. George, Chennai - 600 009.

2.The Director of School Education,
College Road, Chennai - 600 006.



3.The Chief Educational Officer,
Tuticorin, Tuticorin District.

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

+1 CC to M/s.SPL GP (SR-98063[F] dated 13/11/2019)

+1 CC to M/s.A.AMALA, Advocate (SR-98201[F] dated 14/11/2019)

W.A. (MD)No.1115 of 2019
12.11.2019

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