



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.24916 of 2019

and

W.M.P. (MD) No.21502 of 2019

WEB COPY

Anitha

... Petitioner

-Vs-

1.Secretary to the Government
Department of School Education
St.George Fort
Chennai

2.The Director of School Education
DPI Compound
College Road, Chennai

3.The Chief Educational Officer
Tirunelveli
Tirunelveli District

4.The District Educational Officer
Tenkasi
Tirunelveli District

5.The Manager
St.Antony's Girls Higher Secondary School
Veerakaralam Pudur
Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in respect of order passed by the 4th respondent in O.Mu.No.1870/21/2019 dated 22.10.2019 and quash the same and consequently direct the 3rd and 4th respondents to approve the appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (ie.01.08.2019).

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.M.Karuppasamy
1 to 4 Government Advocate.

ORDER

This Writ Petition has been filed to call for the records in respect of order passed by the 4th respondent in O.Mu.No.1870/21/2019 dated 22.10.2019 and quash the same and



consequently direct the 3rd and 4th respondents to approve the appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (ie.01.08.2019).

2. The petitioner was appointed as B.T. Assistant in the fifth respondent School, which is a minority Institution, due to the retirement of one Loganayagi as B.T. Assistant retired from service on 31.07.2019 on attaining the age of superannuation. After due process of selection, the petitioner was appointed in the said sanctioned vacancy. After appointment, the fifth respondent sent a proposal to the fourth respondent for approval. The fourth respondent returned the said proposal on the ground that the petitioner has not passed in Teachers Eligibility Test (TET) and as per order of this Court, dated 09.04.2019 in W.A(MD). No.76 2019 batch, transfer cannot be granted for new appointment. Challenging the said impugned order, the petitioner has come up with the present Writ petition.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4.

4. From the impugned order, it is seen that the fourth respondent returned the proposal submitted by the fifth respondent on two grounds that as per order of the Division Bench of this Court, dated 09.04.2019 in W.A(MD).No.76 of 2018 etc., batch, transfer cannot be granted for new appointment and the fifth respondent appointed the person who has not passed Teachers Eligibility Test (TET). Both grounds are erroneous. As per the order dated 09.04.2019, the first respondent issued G.O.(Ms). No.165 School Education Department, dated 17.09.2019. The said G.O relates to appointment by Corporate Management, while the fifth respondent School is a single Management School. Further, the operation of G.O(Ms).No.165, School Education Department, dated 17.09.2019, was suspended by the Division Bench of this Court, dated 20.09.2019. Further, the fifth respondent School is a Minority School. A Division Bench of this Court in the Judgement reported in **2016 (5) CTC 639 (The Secretary to Government Vs. S.Jeyalakshmi and another)** held that the Teachers Eligibility Test qualification is not applicable to the appointment of teachers working in the Minority Institution.

5. For the above reason, the impugned order of the fourth respondent dated 22.10.2019 is set aside. The fifth respondent School is directed to resubmit the proposal to the fourth respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such proposal, the fourth respondent is directed to approve the appointment of the



petitioner, if she is otherwise qualified, within a period of four weeks thereafter.

6. With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar (CS)

msa

To

1. The Secretary to the Government
Department of School Education
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Chennai

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DPI Compound
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Tirunelveli District

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Veerakaralam Pudur
Tirunelveli District

+1 CC to MR.S. CHELLAPANDIAN, Advocate (SR-101322[F] dated 26/11/2019)

+1 CC to MR.SPL GP (SR-101505[F] dated 26/11/2019)

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