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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2020

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.368 of 2020
and W.M.P No.414 of 2020

Thiruvavaduthurai Adheenam Middle School,
Thiruvavaduthurai,
Kuthalam Union,
Nagapattinam District,
Rep. by its Correspondent,
P.Sundaresan,
S/o.Parthasarathi.

Petitioner

vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The District Educational Officer,
Mayiladuthurai,
Nagapattinam District.
3. The Block Educational Officer,
Kuthalam Union - 609 801,
Nagapattinam District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in O.Mu.No.2280/Aa2/2019 dated 21.11.2019 to quash the same and consequently directing the respondents to approve the appointments of Thiru.A.Kalaimaran and Tmt.B.Sridevi in the sanctioned post of Secondary Grade Teacher in the Petitioner School from the date of appointment on 28.04.2014 and 13.07.2017 respectively with all consequential and other attendant benefits including arrears of salary with interest, within a time frame to be fixed by this Court.

For Petitioner	: Mr.G.Sankarran
For Respondents	: Mrs.V.Annalakshmi
	Government Advocate



ORDER

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This writ petition has been filed challenging the proceedings of the 2nd respondent, dated 21.11.2019 and for a direction to the respondents to approve the appointments of two Secondary Grade Teachers who are working in the Petitioner School from the year 2014 and 2017 respectively.

2.The case of the petitioner is that a vacancy arose in the post of Secondary Grade Teacher in the year 2013 and one A.Kalaimaran was appointed in the said vacancy on 28.04.2014. The petitioner School also forwarded the proposal seeking for approval of the appointment and it was pending. Likewise, one more vacancy arose in the year 2017 due to retirement and in the said vacancy one Tmt.B.Sridevi was appointed as a Secondary Grade Teacher on 13.07.2017. A proposal was sent seeking for approval of appointment and said proposal was also kept pending. Several representations were made to the respondents to grant the approval for the appointments. Ultimately, the petitioner approached this Court and filed writ petitions and pursuant to the orders passed by this Court, the 2nd respondent considered the representations made by the petitioner and has issued the impugned proceedings returning the proposal on the ground that there are surplus teachers who have to be accommodated in the petitioner School. Aggrieved by the same, the present writ petition has been filed.

3.Mr.G.Sankaran, learned counsel appearing on behalf of the petitioner submitted that the reasoning given by the 2nd respondent to reject the approval, is totally unsustainable since, the orders passed by the Division Bench of this Court cannot be given retrospective effect for vacancies which had arisen in the year 2014 and 2017. The learned counsel further submitted that the Government Order in G.O.Ms.No.165, dated 17.09.2019 has already been suspended by this Court and an Appeal is pending before the Madurai Bench of this Court. The learned counsel submitted that the 2nd respondent ought to have independently considered the proposal and granted approval and the delay on the part of the 2nd respondent in keeping the file pending cannot be ultimately justified by the 2nd respondent relying upon order passed in the year 2019 and try to apply the same to the facts of the present case. The learned counsel submitted that the proceedings of the 2nd respondent requires interference and a direction must be given to the 2nd respondent to grant approval for the appointment of the Secondary Grade Teachers.



4. Per contra, Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the respondents submitted that the approval sought for by the petitioner School cannot be granted, since, this Court had directed that the vacancies will have to be first filled up only with surplus teachers. The learned counsel brought to the notice of this Court, the order passed by the Division Bench of this Court to that effect. Therefore, the learned counsel submitted that there is no ground to interfere with the impugned proceedings of the 2nd respondent.

5. This Court has carefully considered the submissions made on either side and also the materials available on record.

6. It is an admitted case that the vacancies arose in the year 2014 and 2017 and the petitioner School has proceeded to fill up the vacancy of Secondary Grade Teacher and had sent proposal seeking for approval of the appointment and it was kept pending by the 2nd respondent. The 2nd respondent ought to have independently considered the approval sought for by the petitioner since, the post in question is a sanctioned post and it is a sanctioned vacancy. The 2nd respondent ought not to have relied upon the order passed by the Division Bench of this Court in the year 2019 and should not have given a retrospective effect for a sanctioned vacancy which arose in the year 2014 and 2017 respectively. That apart, the 2nd respondent failed to take note of the fact that the operation of G.O.Ms.No.165, dated 17.09.2019, has already been suspended by this Court and the very validity of the said Government order is now under consideration in the writ appeal which is pending before the Madurai Bench of this Court.

7. In the considered view of this Court, the 2nd respondent ought to have independently considered the approval for appointment sought for by the petitioner School. The 2nd respondent cannot rely upon the subsequent order passed by this Court in the year 2019 and deny the approval.

8. In view of the above discussion, this Court has no hesitation to interfere with the impugned proceedings of the 2nd respondent dated 21.11.2019 and accordingly, the same is hereby quashed. The petitioner is directed to resubmit the proposal to the 2nd respondent seeking for approval for the appointment of two Secondary Grade Teachers made in the year 2014 and 2017 respectively and the 2nd respondent, on receipt of the proposal, is directed to process the file and grant approval, if the appointment has fulfilled all the other requirements. This process shall be completed within a period of four weeks from the date of receipt of copy of this order.



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9. This writ petition is accordingly allowed with the above directions. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The District Educational Officer,
Mayiladuthurai,
Nagapattinam District.
3. The Block Educational Officer,
Kuthalam Union - 609 801,
Nagapattinam District.

+1cc to Mr.G.Sankaran, Advocate Sr.No.2062
+1cc to The Government Pleader, Sr.No.2218

AKM/03.02.2020 /4P-6C/

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