

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2082 of 2020

and WMP No.2430, 2431 and 2435 of 2020

Y. Praveena

... Petitioner

.Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Education Department,
Fort St. George, Chennai 600 009.
2. The Director of Elementary Education,
DPI Campus, Chennai 600 006.
3. The District Educational Officer,
Kilpennathur, Thiruvannamalai.
4. Block Educational Officer,
Kilpennathur, Thiruvannamalai.
5. The Central Manager / Education Board,
Arcot Lutheran Church,
Danish Mission Elementary and Higher
Elementary Schools,
ALC Central Office,
9 ALC Campus, Cuddalore

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the of the third respondent in Na.Ka.No.2411/R3/2019 dated 16.05.2019 and quash the same, consequently, direct the respondents to grant approval to the appointment of the petitioner to the post of secondary grade teacher with effect from 13.12.2018 by taking into account the fact that petitioner's post is a sanctioned post in a two teacher school.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.A.Rajaperumal
Additional Government Pleader
for R1 to R4.

O R D E R

By consent, this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the proceedings of the 3rd respondent dated 16.05.2019 and for a direction to the respondents to approve the appointment of the petitioner as Secondary Grade Teacher, who is working in the 5th respondent school from the year 2018 onwards.

3. The case of the petitioner is that a vacancy arose in the post of Secondary Grade Teacher in the 5th respondent school, due to the retirement of one Mrs.J.Gunaselvi, wherein the petitioner was appointed on 13.12.2018. A proposal was sent by the 5th respondent to the 3rd respondent in this regard, seeking for approval of appointment of the petitioner. The 3rd respondent considered the proposal sent by the 5th respondent school and has issued the impugned proceedings returning the proposal on the ground that there are surplus teachers, who have to be accommodated in the 5th respondent School by virtue of G.O.Ms.No.165, dated 17.09.2019. Aggrieved by the same, the present writ petition has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5. The issue that has been raised in this writ petition has been dealt with by this Court in WP No.368 of 2020. The relevant portions of the order is extracted hereunder:-

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.

6. The petitioner has taken a very specific stand that the surplus teachers available in other schools cannot be a reason for rejecting the approval of the petitioner in the School, in which she has been engaged as a Secondary Grade Teacher. The reason given by the District Educational Officer, lacks particulars and he has made a general statement as if there are surplus teachers available in the other schools, which come within the same management.

7. In view of the above, the impugned proceedings of the 3rd respondent in Na.Ka.No.2411/R3/2019 dated 16.05.2019, is hereby quashed. The petitioner is directed to resubmit the proposal to the 3rd respondent through the 5th respondent school and on receipt of the proposal, the 3rd respondent shall pass necessary orders granting approval, if the petitioner is otherwise qualified for being appointed as Secondary Grade Teacher. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. This writ petition is accordingly allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Education Department,
Fort St. George, Chennai 600 009.

2. The Director of Elementary Education,
DPI Campus, Chennai 600 006.

3. The District Educational Officer,
Thiruvannamalai.

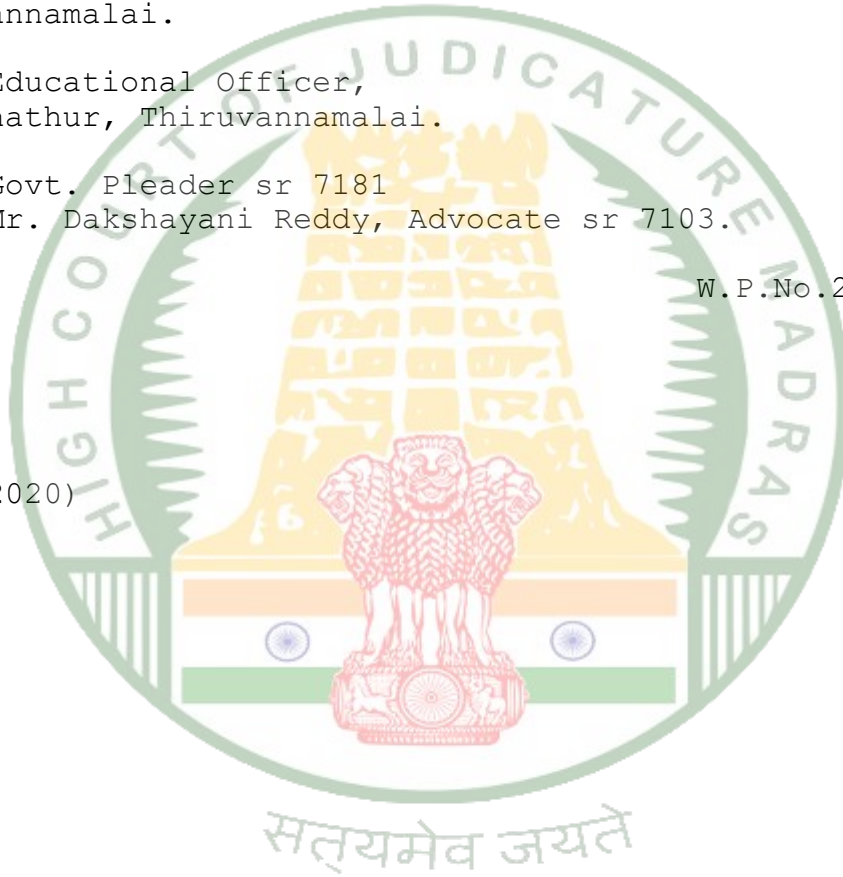
4. Block Educational Officer,
Kilpennathur, Thiruvannamalai.

+1 CC to Govt. Pleader sr 7181

+1 CC to Mr. Dakshayani Reddy, Advocate sr 7103.

W.P.No.2082 of 2020

SAI (CO)
SP(05/02/2020)



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