

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.2991 of 2020

E.K.M.Abdul Gani Matharasa Islamia High School,
No.26, Cauvery Road
Erode -638 001,
Rep by its Correspondent,
G.Muhammad Thaj Muhyideen,
S/o.E.K.M.Abdul Gani

... Petitioner

-Vs-

1. The Chief Educational Officer,
Erode District,
Erode.
2. The District Educational Officer,
Erode Educational District,
Erode.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to grant approval of appointment of B.T.Assistant Teachers Viz., Tmt.M.Mohideen Fathuma and Tmt.A.Sakila Banu in the post of B.T.Assistant (Tamil) and B.T.Assistant (social science) respectively appointed in the sanctioned posts in petitioner school on 01.06.2019, based on the proposal submitted by the petitioner school dated 28.08.2019, with all consequential and other attendant benefits including payment of salary from the date of appointment, within a time frame fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mrs.V.Annalakshmi,
Government Advocate

ORDER

This Writ Petition has been filed for the issue of writ of Mandamus, directing the respondents to grant approval for the appointment of B.T.Assisants made by the petitioner school, based on the proposal submitted by the petitioner school on 28.08.2019.

2. The case of the petitioner is that it is a linguistic minority educational institution. When the vacancy arose in the post of B.T. Assistants in the year 2019, due to the retirement of the incumbent. The petitioner school started the selection process and appointed two teachers in the said vacancies and they have also joined the post on 01.06.2019. Thereafter, the petitioner school has forwarded the proposal for approval of appointment of the two teachers from the date of their appointment. This was forwarded on 28.08.2019. The grievance of the petitioner is that the respondents have not passed any orders and it is kept pending on the ground that under G.O.Ms.No.165 dated 17.09.2019, the surplus teachers can be deployed and no approval can be granted for appointment. Therefore, left with no other option, the petitioner filed this writ petition, seeking for appropriate directions.

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

4. The issue that has been raised in this writ petition has already been dealt with by this Court in WP No.368 of 2020 dated 08.01.2020. 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.

5. It is clear from the above order that the approval of appointment has to be considered independently and it should not be stalled based on G.O.Ms.No.165 dated 17.09.2019, since the operation of Government Order has already been suspended by this Court. Therefore, the respondents are bound to consider the proposal independently and if the appointment is in accordance with law, the approval has to be granted to the appointments made by the petitioner school.

6. In the light of the above discussion, there shall be a direction to the 2nd respondent to consider the proposal that has been forwarded by the petitioner school on 28.08.2019, seeking for approval of the appointment of the B.T.Assistants, in line with the judgment referred supra and pass appropriate orders, within a period of four weeks from the date of receipt of copy of this order.

7. This writ petition is disposed of with the above directions.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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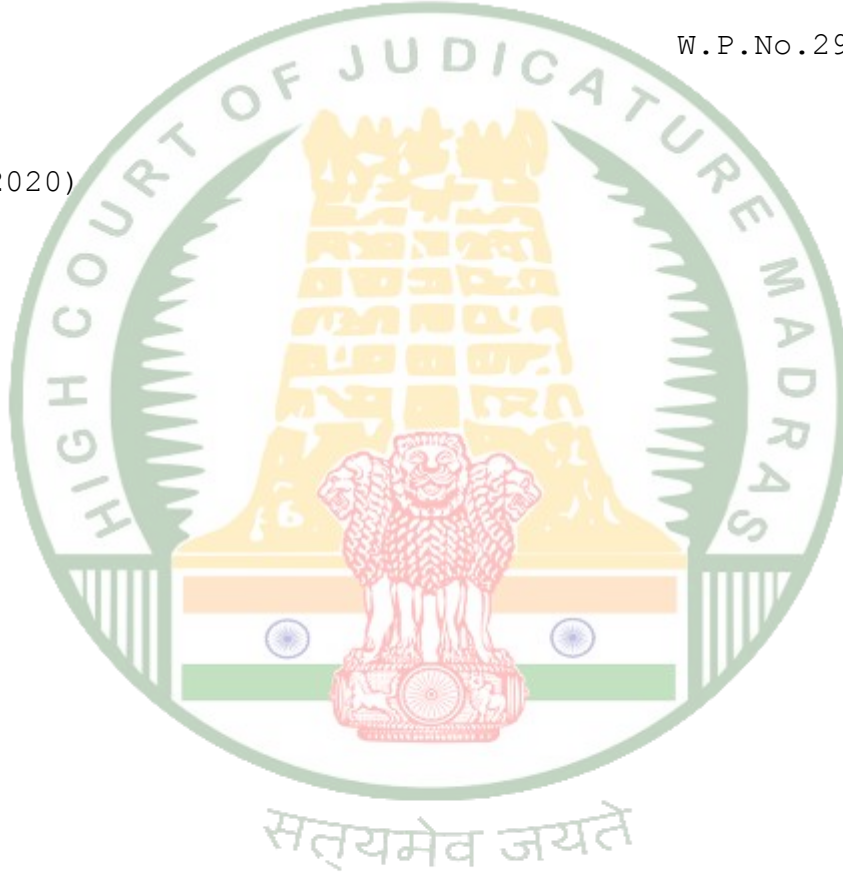
To

1. The Chief Educational Officer,
Erode District,
Erode.
2. The District Educational Officer,
Erode Educational District,
Erode.

+1 CC to Mr.G.Sankaran, Advocate sr 1062

W.P.No.2991 of 2020

SP(14/02/2020)



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