

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.5130 of 2020

and

WMP No.6062 of 2020

A.N.M.Middle School,
Rep.by its Correspondent,
K.Shanmugam,
S/o.Kumaravel,
Pallipalayam,
Devampattu Post,
Minjur Block,
Thiruvallur District.

... Petitioner

-Vs-

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.
3. The District Educational Officer,
Ponneri Educational District,
Thiruvallur District.
4. The Block Educational Officer-II,
Minjur Block,
Thiruvallur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pass orders granting approval of appointment of Tmt.P.Selvi in the post of B.T. Assistant (Maths) in the petitioner School from the date of appointment on 27.02.2019 based on the proposal forwarded by the petitioner School dated 27.02.2019, with all consequential and other

attendant benefits including arrears of salary along with interest for delay in payment, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.S.Suresh Kumar
Government Advocate

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the respondents to grant approval to the appointment of the B.T. Assistant (Maths), made by the petitioner School on 27.02.2019.

2.The case of the petitioner is that the petitioner School is an aided School and they have a sanctioned post of a Secondary Grade Teacher. This post fell vacant on 03.09.2018, due to the promotion of the incumbent. According to the petitioner, the post of Secondary Grade Teacher was upgraded to B.T. Assistant (Maths) and the petitioner School has also obtained permission to fill up the post vide proceedings of the 3rd respondent in the month of February 2019.

3.The petitioner School had conducted a selection and had appointed one Tmt.P.Selvi, as B.T.Assistant (Maths). According to the petitioner, she had also completed the teacher eligibility test. The petitioner School had forwarded the proposal to the 4th respondent on 27.02.2019, seeking for approval of the appointment of the B.T. Assistant (Maths). The grievance of the petitioner is that the proposal has not been considered by the respondents since they are placing reliance upon G.O.Ms.No.165, dated 17.09.2019. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.G.Sankaran, learned counsel appearing for the petitioner and Mr.S.Suresh Kumar, learned Government Advocate appearing on behalf of the respondents.

5.The issue that has been raised in the present case has been dealt with by this Court in W.P.No.368 of 2020, dated 08.01.2020. The relevant portions of the judgment is extracted here under:

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.

6.It is clear from the above judgment that G.O.Ms.No.165, dated 17.09.2019, has already been stayed by this Court and the respondents ought to have independently considered the approval for appointment sought for by the petitioner School.

7.In view of the above discussion, there shall be a direction to the 3rd respondent to immediately process the approval that has been forwarded by the petitioner School and pass appropriate orders within a period of four weeks from the date of receipt of copy of this order. The petitioner School is directed to make a fresh representation to the 4th respondent School along with a copy of this order.

8.This writ petition is disposed of with the above

directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.
3. The District Educational Officer,
Ponneri Educational District,
Thiruvallur District.
4. The Block Educational Officer-II,
Minjur Block,
Thiruvallur District.

+1cc to Mr.G.Sankaran, Advocate, Sr.No.18534

+1cc to the Government Pleader, Advocate, Sr.No.18279

W.P.No.5130 of 2020

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RKS (CO)
GS(29/07/2020)