



WEB COPY

W.A.(MD).No.577 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD) .No.577 of 2020

and

C.M.P. (MD) .No.3839 of 2020

1.The Chief Educational Officer,
Thanjavur.

2.The District Educational Officer,
Thanjavur.

... Appellants/Respondents

Vs.

The Correspondent,
Sacred Heart Girls' Higher Secondary School,
Thanjavur,
Thanjavur District.

... Respondent/Writ Petitioner

Prayer: The Writ Appeal is filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.(MD).No.4336 of 2018, dated 28.03.2018.

Prayer in WP(MD). 4336/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus directing the 2nd respondent District Educational Officer to approve forthwith the appointment of S.Jacqueline as PG Assistant English in the petitioner s school w.e.f. (*)01.06.2016 and disburse the grant-in-aid towards her salary and allowance w.e.f. the said date. (*)
Prayer amended vide Court Order dt.28/03/18 in WMP(MD)No.6273/18)

For Appellants : Mrs.S.Srimathay,
Special Government Pleader

For Respondent : Mr.K.Ragatheesh Kumar
for M/s. Isaac Chambers



J U D G M E N T

(Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**)

The official respondents are the appellants and challenging the order of interim direction dated 28.03.2018 made in the main writ petition itself, the present writ appeal is filed.

2. The respondent/writ petitioner has filed the said writ petition praying for the issuance of a Writ of Mandamus directing the second appellant herein to approve forthwith the appointment of S.Jacqueline as P.G.Assistant (English) in the respondent's School with effect from 01.06.2016 and disburse the grant-in-aid towards her salary and allowance with effect from the said date. The writ petition was admitted on 28.03.2018 and the learned Single Judge has also taken note of the fact that challenge was made to the order of termination in W.P.(MD).No.7510 of 2016 by one Daissy Rani, and passed an order of ad-interim direction directing the second appellant herein/second respondent to release the monthly salary.

3. The learned Special Government Pleader appearing for the appellants would submit that the part of the prayer in the main writ petition came to be allowed straight away even at the admission stage, and in the light of the various judgments of the Hon'ble Supreme Court, the said order of ad-interim direction is *per se* unsustainable and prays for interference.

4. Per contra, the learned counsel appearing for the respondent would submit that admittedly, the filling up of the post is in respect of the sanctioned vacancy and despite such a right is available to the minority institution, the second appellant is not taking proper and effective steps to disburse the grant-in-aid towards salary and as a consequence, the concerned Teacher is working without salary for very many years and taking into consideration the cumulative facts and circumstances of the case, the said order of interim direction came to be passed and he also pleaded that in the alternative, this Court may direct the second appellant to pay salary at least from this month onwards.

5. This Court has carefully considered the rival submissions and perused the materials placed before this Court.

6. As rightly pointed out by the learned Special Government Pleader that the payment of the grant-in-aid towards salary and allowance is a part of the main prayer and the learned Single Judge, while admitting the writ petition on 28.03.2018, has straight away granted part of the main prayer without even putting the respondents on notice. Hence, on the sole ground, the impugned interim direction warrants interference.



7. In the result, the Writ Appeal is allowed and the order dated 28.03.2018 made in W.P.(MD).No.4336 of 2018 is set aside.

8. In the light of the representation made by the learned counsel appearing for the respondent that Miscellaneous Petition has been filed for interim direction, it is open to the Single Roster Bench to take up the Miscellaneous Petition and give disposal. The Registry is also directed to expedite the final hearing of the writ petition as well as the W.P.(MD).No.7510 of 2016. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (LA&MC)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID -19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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The Section Officer, Writ Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-14548[F] dated 20/08/2020)

+1 CC to SGP (SR-14499[F] dated 20/08/2020)

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