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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A.No.1038 of 2021
and C.M.P.No.6546 of 2021

1. The State of Tamilnadu
rep. by its Secretary to Government,
School Education Department,
Fort St. George, Chennai-600 009.
2. The Director of School Education,
College road, Chennai-6.
3. The District Educational Officer,
Sathyamangalam, Erode,
Erode District.

...Appellants/Respondents 1-3

Vs.

1. N.Niji ...Respondent 1/Petitioner
2. The Correspondent,
R.C. Aided Primary School,
Door No.12/201, Doddagajanur Village,
Thalavadi, Sathyamangalam Taluk,
Erode District-638 461.
...Respondent2/Respondent 4

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 28.10.2020 passed in W.P.No.31033 of 2019.

Prayer in W.P.No.31033 of 2019: Petition filed under Article 266 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus to call for the records relating to the third respondents order made in Na.Ka.No.2437/A3/2018 dated 05.12.2018 to quash the same and to consequently direct the respondents 1 to 3 to grant and approve the appointment of the petitioner as Secondary Grade Teacher in the fourth respondent School with effect from 01.06.2017 with all consequential monetary benefits.



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For Appellants : Mr.R.Neelakandan
State Government Counsel

For Respondents : Mr.L.Chandrakumar for R1

J U D G E M E N T

This appeal is preferred by the Education Department of the State of Tamil Nadu challenging the order passed by the writ Court dated 02.06.2020 in W.P.No.31033 of 2019.

2. The second respondent in this writ appeal is a religious minority aided school. The post of the Secondary Grade Teacher (SGT) fell vacant due to the promotion of the then incumbent on 01.06.2017 in the said School and the petitioner was appointed as SGT with effect from 01.06.2017, who is fully qualified. The second respondent school submitted proposal to the third appellant herein requesting for approval of her appointment and disburse grant-in-aid towards her salary. Since there was no response from the third appellant, the writ petitioner filed W.P.No.10349 of 2018, which was disposed of, on 21.08.2018 with certain directions to the appellants. However, the proposal was rejected by the third appellant on 05.12.2018 vide the order impugned in the writ petition on the ground that there were surplus teachers under the diocese.

3. The learned Single Judge had considered the submissions of the leaned counsel for the respondent/writ petitioner and also the State Government Counsel and allowed the writ petitions relying upon the order of this Court dated 02.06.2020 in W.P.Nos.31117, 31125 and 31130 of 2018, wherein, the earlier Division Bench judgments were referred to, and directed the competent authority to grant approval to the appointment of the writ petitioner without reference to the earlier rejection, if otherwise she was qualified for regular appointment as SGT.

4. The appeals were filed in W.A.Nos.1102, 1105 and 1106 of 2020 against the order dated 02.06.2020 made in W.P.Nos.31117, 31125 and 31130 of 2018. After extensively dealing with the issue and relying upon the judgment dated 31.03.2021 in W.A.(MD) Nos.76 of 2019 etc. batch, (The Secretary to Government, Government of Tamil Nadu, School Education Department V. Iruthaya Amali, 2021 SCC OnLine Mad 1285), vide order dated 24.06.2021, we have held as follows :

"11. The said principle is squarely applicable to the appellants Department as well. In view of the above settled position and in the wake of decisions of



the recent Division Bench judgment in Iruthaya Amali's case, there is no infirmity or irregularity in the common order of the learned Single Judge dated 12.06.2020 and it does not warrant any interference.

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12. For the foregoing reasons, the Writ Appeals are dismissed and the order of the learned Single Judge is upheld. The appellants are directed to comply with the directions issued by the learned Single Judge within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

5. For the foregoing reasons, following the order dated 24.06.2021, in W.A.Nos.1102, 1105 and 1106 of 2020, the Writ Appeal is dismissed and the order of the learned Single Judge is upheld. The appellants are directed to comply with the directions issued by the learned Single Judge within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamilnadu,
School Education Department,
Fort St. George,
Chennai-600 009.
2. The Director of School Education,
College road,
Chennai-6.
3. The District Educational Officer,
Sathyamangalam, Erode,
Erode District.



4. The Correspondent,
R.C. Aided Primary School,
Door No.12/201, Doddagajanur Village,
Thalavadi,
Sathyamangalam Taluk,
Erode District-638 461.

+1 cc to Mr.L.Chandrakumar,Advocate Sr.No.40941
+1 cc to the Government Pleader,Advocate Sr.No.41461

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& C.M.P.No.6546 of 2021

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