



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

WEB COPY

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THE HONOURABLE Mr.JUSTICE V. PARTHIBAN

W.P.No.11855, 11857 & 11862 of 2021
and

WMP.No.12604, 12605, 12606, 12607,12609, 12610, 12612, 12613 &
12614 of 2021

Islamiah Higher Secondary School
Represented by its Correspondent,
Peranambut
Vellore District

...Petitioner
in all W.Ps.

Versus

1. State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St. George,
Chennai 600 009.
2. Director of School Education,
DPI Campus
Chennai 600 009.
3. The Chief Educational Officer,
Vellore District.
4. The District Educational Officer
Vellore District

... Respondents
in all W.Ps

Prayers in W.P.No.11855 of 2021: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, calling for the records of the 4th respondent in Na.Ka.No.1114/A4/2021 dated 19.04.2021 and quash the same and consequently direct the respondents to approve the appointment of Thiru.V.Surendranath to the post of BT Assistant Science with effect from 01.06.2019 with all monetary and service benefit in accordance with the judgment of the Hon'ble Division Bench in Writ Appeal Nos (MD) 76, 225, 341 of 2019 etc dated 31.03.2021.



Prayers in W.P.No.11857 of 2021: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, calling for the records of the 4th respondent in Na.Ka.No.1115/A4/2021 dated 19.04.2021 and quash the same and consequently direct the respondents to approve the appointment of Thiru.Thaneerul Haque to the post of BT Assistant English with effect from 01.06.2020 with all monetary and service benefit in accordance with the judgment of the Hon'ble Division Bench in Writ Appeal Nos (MD) 76, 225, 341 of 2019 etc dated 31.03.2021.

Prayers in W.P.No.11862 of 2021: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, calling for the records of the 4th respondent in Na.Ka.No.1116/A4/2021 dated 19.04.2021 and quash the same and consequently direct the respondents to approve the appointment of Thiru.S.S.Atheeqe Ahmed to the post of BT Assistant Mathematics with effect from 08.07.2020 with all monetary and service benefit in accordance with the judgment of the Hon'ble Division Bench in Writ Appeal Nos (MD) 76, 225, 341 of 2019 etc dated 31.03.2021.

For Petitioner : Ms. Dakshayani Reddy
in all W.Ps

For Respondents : Mr.Abishek Murthy
in all W.Ps Government Advocate for R1 to R4

C O M M O N O R D E R

These writ petitions have been filed challenging the proceedings of the 4th respondent herein rejecting the proposal for approval for appointment of the teachers as BT Assistant in Science, BT Assistant in Mathematics and BT Assistant in English. The petitioner school was established in the year 1948 as a religious Muslim Minority Institution. In 2019, the petitioner school faced with the vacancy due to retirement of the incumbent teachers and the school had filled up the posts / vacancies by appointing the teachers on the basis of their selection with effect from 01.06.2019, 01.06.2020 and 08.07.2020 respectively.

2. The posts, in which the teachers were appointed, were sanctioned posts well within the cadre strength as fixed by the Educational Authorities. Thereafter, a proposal was forwarded



to the 4th respondent seeking approval for the appointment of the teachers by the petitioner school. The petitioner school being a minority school, Teacher Eligibility Test was not required in terms of the ruling of the Hon'ble Supreme Court of India and this Court. When the proposal was sent to the fourth respondent, instead of approving the appointment, fourth respondent has rejected the same vide proceedings dated 19.04.2021, which is the subject matter of challenge in the present writ petitions.

3. The learned counsel for writ petitioners Ms.Dakshayani Reddy would submit that when the proposal was rejected by the impugned order dated 19.04.2021, the reasons that were set forth in the order relate to the certain interim orders passed in a batch of writ appeals in W.A.(MD).Nos.76 of 2019 etc., pending before this Court. In fact, the interim order was in relation to the schools, which are administered by Corporate management wherein the Courts have ruled that the vacancies in all such schools not to be filled up unless excess staff under the same corporate or joint management was exhausted fully. But as far as the petitioner school is concerned, it is the stand alone institution and there is no legal bar in filling up its vacancies within the sanctioned strength.

4. The learned counsel would submit that the Hon'ble Division Bench has finally disposed of all the writ appeals by passing final orders on 31.03.2021. This Court's attention has been drawn to the ruling of the Division Bench as found in sub-paragraph (v) of paragraph 95, which reads as follows:-

"(v) Like that insofar as aided minority institutions are concerned, if it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength for the academic year 2021-22 shall not be affected because of the identified excess teachers in other schools. At the same time, even if the school is a minority institution, however being administered by a joint management or corporate management, in respect of those schools, even though vacancy arose within the sanctioned strength of such school or schools under corporate management or joint management, those vacancies shall not be filled up unless the excess staff identified in all other schools under the same corporate or joint management are exhausted fully and only after exhausting the redeployment process on all excess teachers identified in the group of schools under the same corporate management, they shall be free



to make appointment afresh from open market in the vacancy if any still, within the sanctioned strength."

5. The Hon'ble Division Bench has clearly held that as far as the stand alone institutions are concerned, their right to appoint a teacher in a vacancy within the sanctioned strength shall not be affected because of the employment of excess teachers in other schools. In view of the clear and categorical ruling of the Division Bench, the rejection of the fourth respondent is liable to be interfered with as it is contrary to the judgement passed by the Division Bench.

6. The learned Government Advocate appearing for the respondents would state that the fact that the petitioner school is a stand alone institution is not in dispute and he would also submit that the decision of the Division Bench with regard to stand alone institutions may have to be applied to the present claim of the petitioner school.

7. In view of the admitted legal position, these writ petitions are allowed and the impugned orders dated 19.04.2021 are hereby set aside and the fourth respondent is directed to process the proposal forwarded by the school in respect of the appointment of the teachers covered under the present writ petitions and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa/mdl

To

1.The Secretary,
School Education Department,
Fort St. George,
Chennai 600 009.

2.Director of School Education,
DPI Campus
Chennai 600 009



3. The Chief Educational Officer,
Vellore District

4. The District Educational Officer,
Vellore District.

+1 CC to The Government Pleader sr 64874

+1 CC to M/s. Dakshayani Reddy, Advocate sr 64518.

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PA(CO)
SP(04/01/2022)