

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No.13275 of 2021

W.M.P. Nos.14098, 14101 & 14104 of 2021

The Correspondent

St. Mary's Girls Higher Secondary School,
Mount Road,
Coonoor – 643 102
The Nilgris

.. Petitioner

Versus

1.The Government of Tamil nadu,
Rep. by its Secretary,
Department of Higher Education,
Fort St. George, Chennai – 600 009.

2.The Director of School Education,
College Road, Chennai – 600 006.

3. The Chief Educational Officer,
New Collectorate Campus,
Finger Post,
Ooty – 643 006
The Nilgris.

4. The District Educational Officer,
Near Government Arignar Anna School,
Tent Hill Coonoor – 643 102,
The Nilgris.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for

the records relating to the impugned proceedings issued by 4th respondent District Educational Officer in O.Mu.No.5090/Aa5/2019 dated 11.10.2019, and the subsequent proceedings of the 3rd respondent Chief Educational Officer vide Na .Ka. No. 5457/Aa4/2019 dated --.12.2019 and Na.Ka.No.3170/Aa4/2020 dated 15.10.2020, quash the same and further direct the respondents 3 and 4 to approve forthwith the appointment of Mrs.B.Maria Jayaceeli as Physical Director in the petitioner-school with effect from the date of her appointment viz., 19.07.2019, and release salary and all attendant benefits with effect from the said date.

For Petitioner : M/s.Mary Sowmi Rexi
For Respondents : Mr.C.Kathiravan
Government Advocate

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by 4th respondent District Educational Officer in O.Mu.No.5090/Aa5/2019 dated 11.10.2019, and the subsequent proceedings of the 3rd respondent Chief Educational Officer vide Na .Ka. No. 5457/Aa4/2019 dated --.12.2019 and

Na.Ka.No.3170/Aa4/2020 dated 15.10.2020, quash the same and further direct the respondents 3 and 4 to approve forthwith the appointment of Mrs.B.Maria Jayaceeli as Physical Director in the petitioner-school with effect from the date of her appointment viz., 19.07.2019, and release salary and all attendant benefits with effect from the said date.

2.Brief facts that are necessary for the disposal of the Writ Petition are as follows:

The petitioner is a minority school. It is stated that the institution is founded and administered by the Congregation of "the Franciscan Sisters of Presentation of the Blessed Virgin Mary, Coimbatore", a Society registered under the Tamil Nadu Societies Registration Act.

3.It is not in the dispute that the petitioner is a recognized and aided minority educational institution. The post of Physical Director in the petitioner's School fell vacant on 01.06.2019 due to the retirement of then incumbent Mrs.Joyce Vijayakumari. The petitioner's School appointed one Mrs.B.Maria Jayaceeli with effect from 19.07.2019. When the school submitted the proposal to the 4th

respondent for approval of her appointment for the purpose of disbursement of grant-in-aid towards her salary, the 4th respondent rejected the proposal on the ground that the approval cannot be granted to the petitioner without getting permission from the 3rd respondent. Another reason stated in the impugned order is that as per the interim order granted by this Court earlier, no teacher can be appointed, when there is a surplus teacher.

4.It is demonstrated before this Court that the 3rd respondent himself has fixed the staff strength for the petitioner's school for the year 2020-21. As per the staff strength and G.O.Ms.No.525, School Education (D1) Department dated 29.12.1997, the petitioner is eligible to have the single post of Physical Director. It has been repeatedly held by this Court that prior permission is not required before appointment in respect of minority institutions. Since the petitioner is appointed as an eligible candidate for the post which is vacant, no prior permission is required.

5.This Court is of the view that the impugned order is liable to be quashed and accordingly, this writ petition stands allowed and the 3rd and 4th respondents are directed to approve the appointment

of Mrs.B.Maria Jayaceeli as Physical Director in the petitioner's school forthwith and to release the salary and all attendant benefits with effect from the date of appointment. No Costs. Consequently, connected miscellaneous petitions are closed.

30.06.2021

Index:Yes
Internet:Yes
Speaking order
ssr

To

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Fort St. George, Chennai – 600 009.

2.The Director of School Education,
College Road, Chennai – 600 006.

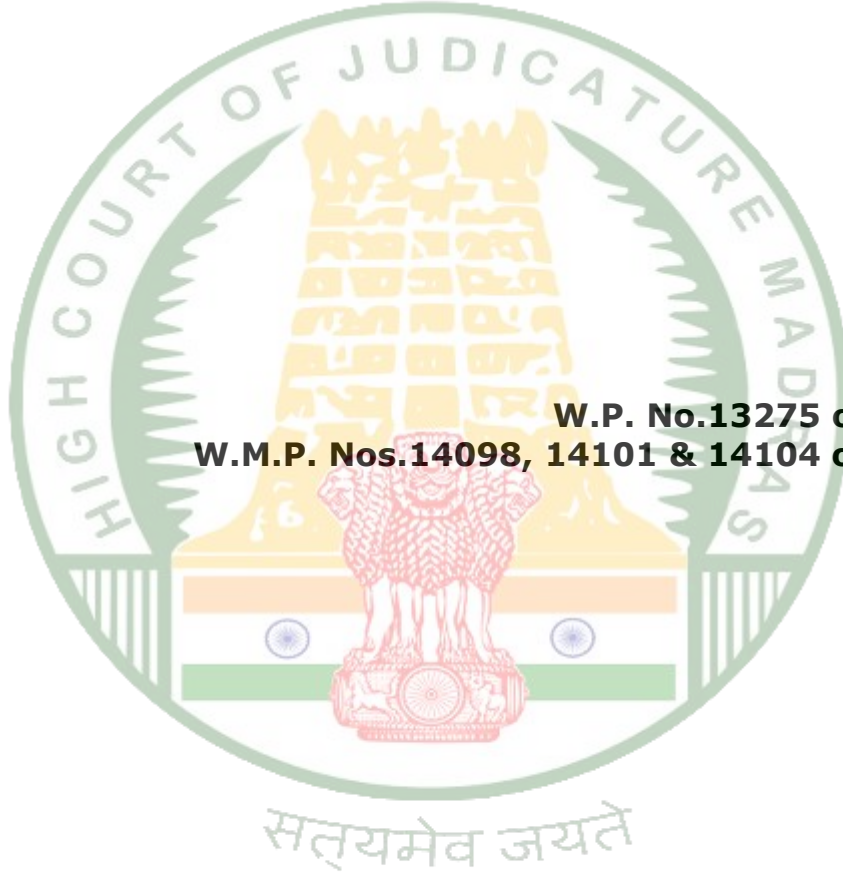
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S.S.SUNDAR. J.,

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