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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.17687 of 2021
and
W.M.P.No.18851 of 2021
(Through Video Conferencing)

Y.Priya

...Petitioner

Vs

1. The Government of Tamil Nadu,
Represented by its Secretary,
The Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Commissioner for School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai- 600 006.
3. The District Educational Officer,
The Office of the District Educational Officer,
Chennai - 6.
4. Block Educational Officer,
Adyar Range, Saidapet,
Chennai - 600 006.
5. The Correspondent,
CSI Middle School,
61, Alandur Road, Saidapet,
Chennai-600 015.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent to act upon the recommendation of the fourth respondent dated 11.03.2020 in Na.Ka.No.58/2020 in the light of the order of this Hon'ble court dated 24.08.2016, and reported in (2016) 7 MLJ 155 Secretary to Government Vs. S. Jeyalakshmi, in the batch of writ petitions, to regularize the service of the petitioner with all service monetary benefits.



For Petitioner : M/s.Father Xavier Associates
For Respondents :
For R1to R4 : Mr.V.P.R.Elamparithi
Government Advocate

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ORDER

The petitioner was appointed as B.T.Assistant (Tamil) on 20.07.2011. The appointment was on temporary basis. Thereafter, proposals were sent by the fourth respondent to the third respondent to implement the order of the Division Bench of this Court dated 24.08.2016 passed in W.A.Nos.213 and 572 of 2016 etc in the case of The Secretary to Government, Government of Tamil Nadu, Education Department, Chennai and others Vs S.Jeyalakshmi and another, 2016 (4) L.W.841.

2. Though the proceedings of the fourth respondent dated 11.03.2020 has been forwarded for implementation of the aforesaid order in the case of the petitioner's also, the third respondent is yet to pass any order.

3. The Division Bench of this Court in the above case has held that Government cannot insist upon the minority institutions like the fifth respondent both aided or unaided, to abide by any regulation framed under the provisions of the RTE (Right of Children to Free and Compulsory Education) Act, 2009.

4. Thereafter, Similar orders have been passed by this Court in the following cases:-

(i) Sangu Kumar Vs The Director of School Education, Chennai and others in W.P(MD).No.16428 of 2018.

(ii) Anna Boys Higher Secondary School, Represented by its Correspondent Vs The Director of School Education, Chennai and others in W.P(MD).No.20203 of 2018.

(iii) S.M.Shanthi Vs The District Educational Officer, Sivangangai District and others in W.P(MD).No.8807 of 2021.

(iv) R.Sasikala and another Vs The Government of Tamil Nadu, Represented by its Secretary to Government, Chennai and others in W.P(MD).Nos.17516 & 17519 of 2020.

5. Accordingly, G.O.Ms.No.181, School Education (C2) Department dated 15.11.2011 issued by the Government of Tamil Nadu. It has been clarified that RTE Act is not applicable to the minority institutions. A similar view has been taken in G.O.Ms.No.76 dated 18.03.2015 by the Government of Puducherry in respect of minority institutions.

6. The issue is squarely covered in favour of the petitioner in the above decision of the Division Bench of this Court and



since no contra order has been shown, this Court is inclined to allow this Writ Petition at the admission stage itself by directing the third respondent to act upon the recommendation of the fourth respondent dated 11.03.2020 within a period of eight weeks from the date of receipt of a copy of this order.

7. This Writ Petition stands allowed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

arb

To

1. The Secretary,
Government of Tamil Nadu,
The Department of School Education,
Fort St. George, Chennai-600 009.
2. The Commissioner for School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.
3. The District Educational Officer,
The Office of the District Educational Officer,
Chennai - 6.
4. Block Educational Officer,
Adyar Range, Saidapet,
Chennai - 600 006.

+1CC to M/s.Father Xavier Associates, Sr.No.42242

+1CC to Government Pleader, Sr.No.43011

W.P.No.17687 of 2021

and

W.M.P.No.18851 of 2021

KSM (CO)

K.RK. (22.09.2021)