



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.21389 of 2021
and
W.M.P.No.22635 of 2021

(Through Video Conferencing)

P.A.Joe Royan Nirmal

... Petitioner

Vs

1. The Commissioner of School Education,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600 006.

2. The Chief Educational Officer,
The Chief Educational Office
Thiruvallur - 602 001
Thiruvallur District.

3. The District Educational Officer,
The District Educational Office,
Thiruvallur - 602 001
Thiruvallur District.

4 The Correspondent,
Don Bosco Higher Secondary School,
Pannur, Thiruvallur - 602 108

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 2nd and 3rd respondents to effect annual incentives and increments, regularising the appointment of the petitioner w.e.f. 26/09/2011, as B.T.Asst., (Science), without reference to TET qualification, in the 4th respondent minority school, as per the ratio laid down in Secretary to Government v. S. Jeyalakshmi (2016) 7 MLJ 155, in the batch of writ petitions, to regularize the service of the petitioner with all service and monetary benefits.

For Petitioner : M/S.Father Xavier Associates

For Respondents: Mr.L.S.M.Hasan Fizal,
Government Advocate for R1 to R3



ORDER

The Petitioner was appointed as a B.T. Asst.(Physics) on 01.06.2011. The 4th respondent herein being an aided school. The petitioner is also receiving the salary which is paid by the Government. However, the petitioner has not been given increments and other benefits on the ground that the petitioner has not qualified TET.

2. Under these circumstances, the 4th respondent has sent a proposal to the 3rd respondent on 04.06.2018. It is the case of the petitioner that in the case of few other persons, the 3rd respondent is granted approval for payment of increments and other service benefits whereas the case of the petitioner has been alone kept without any orders.

3. The learned counsel for the petitioner submits that the issue is no longer res integra and is squarely covered by the decision of this Court rendered in Secretary to Government, vs. S. Jeyalakshmi and Another (2016) 7 MLJ 155. He also placed reliance on the following decisions:-

(i) W.P.(MD).No.16428 of 2018 dated 26.07.2018 in the case of Sangu Kumar Vs. The Director of School Education and others;

(ii) W.P.(MD).No.20203 of 2018 dated 05.02.2020 in the case of Anna Boys Higher Secondary School Vs. The Director of School Education and others;

(iii) W.P.(MD).No.8807 of 2021 dated 29.04.2021 in the case of S.M.Shanthi Vs. The District Educational Officer and others;

(iv) W.P.Nos.17887, 17888 & 17891 of 2021 dated 26.08.2021 in the case of Mrs. Flora Motcha Rakini.B Vs. The Government of Tamil Nadu, the Department of School Education (C2) and

(v) W.P.No.17687 of 2021 dated 24.08.2021 in the case of Y.Priya Vs. The Government of Tamil Nadu, The Department of School Education and others.

In all these cases, it has been held minority Government aided schools are out side the purview of RTE Act.

4. Considering the above, this writ petition is disposed in the light of the above decision of this Court. The 3rd respondent are therefore directed to pass appropriate orders granting approval on the proposal sent by the 4th respondent and regularize the payments to the petitioner within a period of eight weeks from the date of receipt of a copy of this



order. The arrears, if any, shall also be paid to the petitioner within the aforesaid period. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rgm/jas

To

1. The Commissioner of School Education,
Directorate of School Education,
DPI Campus,
Chennai 600 006.

2. The Chief Educational Officer,
The Chief Educational Office
Thiruvallur - 602 001
Thiruvallur District.

3. The District Educational Officer,
The District Educational Office,
Thiruvallur - 602 001
Thiruvallur District.

4 The Correspondent,
Don Bosco Higher Secondary School,
Pannur, Thiruvallur - 602 108

+1cc to M/s.Father Xavier Associates, Advocate, S.R.No.52274

+1cc to M/s.Father Xavier Associates, Advocate, S.R.No.52274
(21/12/2021)

+1cc to the Government Pleader, S.R.No.52755

W.P.No.21389 of 2021
and

W.M.P.No.22635 of 2021

KSM(CO)
SB(23/11/2021)