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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23217 of 2021

and

W.M.P.Nos.24513 and 24514 of 2021

(Through Video Conferencing)

J.Usha

...Petitioner

Vs

1.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

2.The Chief Educational Officer,
South Chennai District,
Presidency Girls Higher Secondary School Campus,
Egmore, Chennai - 600 008.

3.The District Educational Officer,
South Chennai Education District,
Egmore, Chennai - 600 008.

4.The Correspondent,
Auxilium Girls Higher Secondary School,
74-75, McNichols Road,
Chetpet, Chennai - 600 031.

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating the Impugned Proceedings issued by the second respondent in O.Mu.No.6715/A4/2019 dated 24.06.2021 and the subsequent order issued by the third respondent in Na.Ka.No.3095/Aa2/2019 dated 02.07.2021 and to quash the same and consequently directing the Respondents to pass orders for granting approval of appointment of the petitioner in the sanctioned post of B.T.Assistant (Tamil) in the 4th respondent School with effect from 01.07.2019 including the arrears of salary.



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For Petitioner : Mr.G.Sankaran
For Respondents :
For R1 to R3 : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Mr.L.S.M.Hasan Fizal, learned Government Advocate takes notice on behalf of the first respondent to the third respondents.

2. The petitioner was appointed on 01.07.2019 by the fourth respondent School. After the petitioner was appointed, the fourth respondent School has sent a proposal to the third respondent for approving the appointment of the petitioner.

3. By the impugned order dated 24.06.2021, the second respondent has rejected/returned the proposal for approving the appointment of the petitioner in the said fourth respondent School on the following two grounds:-

(i) A teacher appointed as B.T. Assistant has not passed TET.

(ii) As per interim orders in W.A.(MD).No.76 of 2019 etc., cases dated 09.04.2019 and final order dated 31.03.2021, no teaching post can be filled up without exhausting surplus teachers working in other schools with the Revenue District and there are surplus teachers working in Chennai Revenue District in the academic year 2018-2019 and 2019-2020.

4. Heard the learned counsel for the petitioner and the learned Government Advocate for the first to third respondents.

5. As far as the issue as to whether a teacher from a Minority Aided School is required to qualify in the Teacher Eligibility Test (TET) is concerned, the issue is now covered by the decision of the Hon'ble Supreme Court in Pramati Educational & Cultural Trust Vs Union of India, 2016 (4) L.W.841 which was followed by the Hon'ble Division Bench of this Court in Secretary to Government, Government of Tamil Nadu & others Vs S.Jeyalakshmi & another, (2016) 5 CTC 639.

6. A similar view has also been taken by the Hon'ble Madurai Bench of this Court in W.A.(MD)Nos.1413 and 1414 of 2019 vide its dated 27.11.2019 wherein, it has been categorically held that requirements to G.O.Ms.No.181, School Education (C2) Department, dated 15.11.2011, cannot be imposed on minority institutions.



7. As far as the second ground of rejection is concerned also, it appears that the said ground was taken pursuant to an interim order passed by the Hon'ble Madurai Bench of this Court in W.A.(MD)Nos.76 of 2019 etc., batch vide its order dated 31.03.2021. Pursuant to the aforesaid interim order, G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department dated 17.09.2019 was also issued. After the aforesaid Government Order was issued, the Hon'ble Madurai Bench of this Court has finally held that G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department dated 17.09.2019 is inoperable. A series of orders have already been passed allowing the writ petitions filed on similar lines.

8. This Writ Petition is therefore disposed at the time of admission in the light of the fact that the issue is now squarely covered against the respondents and therefore the impugned order cannot sustained.

9. Therefore, this writ petition is allowed by directing the first respondent to pass appropriate orders within a period of three months by regularizing/granting approval to the appointment of the petitioner in the fourth respondent School. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

rgm/arb

To

- 1.The Director of School Education,
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+1cc to Mr.G.Sankaran, Advocate SR.No.56460

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KG (CO)

RVM(30/11/2021)