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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.22832 OF 2021

AND

WMP.NOS.24055 AND 24056 OF 2021

(Through Video Conferencing)

A.Balamurugan
B.T. Assistant(English),
Sri Dhandapani Oriental Higher Secondary School,
Kanchipuram - 631 502.

... Petitioner

Vs.

1. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Kanchipuram, Kanchipuram District.
3. The District Educational Officer,
Kanchipuram, Kanchipuram District.
4. The Correspondent,
Sri Dhandapani Oriental Higher Secondary School,
Kanchipuram - 631 502.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the third Respondent vide Na.Ka.No.3481/Aa1/2020 dated 03.02.2021 and quash the same and direct the second Respondent to approve the appointment of the Petitioner as B.T. Assistant (English) w.e.f. 30.06.2019, with all consequential monetary



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benefits, in the 4th Respondent school, in the light of the order passed in W.P.No.1959 of 2020, dated 29.01.2020.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.L.S.M. Hasan Fizal
Government Advocate

O R D E R

Pursuant to a resolution dated 29.05.2019 of the second Respondent School Committee to fill up three vacancies, the Petitioner was appointed by the 4th Respondent School on 29.05.2019. As far as the Petitioner is concerned, vacancy arose on account of resignation of one Mr.Radaiah on 30.09.2010 in the post of BT Assistant (English). On the date of appointment of the Petitioner on 29.05.2019, the proposal was forwarded for granting approval for the appointment of the Petitioner by the third Respondent to the second Respondent by communication dated 29.08.2019. The proposal was returned by the second Respondent by a communication dated 07.09.2020 in the wake of interim order passed by this Court in W.A.(MD).No.76 of 2019. Meanwhile, the Government issued G.O.Ms.No.165 dated 17.09.2019 in terms of the interim order in W.A.(MD).No.76 of 2019. The Division Bench of the Madurai Bench of the Madras High Court by its order dated 31.03.2021 in W.A.(MD).No.76 of 2019 etc., batch in the case of The Secretary to Government, Government of Tamil Nadu, School Education Department vs. Iruthaya Amali, 2021 SCC Online Mad 1285, held G.O.Ms.No.165 dated 17.09.2019 was inoperable. Since the issues covered by the aforesaid order, the Division Bench of the Madurai Bench of Madras High Court in W.A.(MD).No.76 of 2019 etc batch it is submitted that the impugned order dated 03.02.2021 of the third respondent is liable to be quashed.

2. The learned counsel for the Petitioner also placed reliance on two other orders of this Court dated 29.01.2020 and 26.02.2020 in W.P.No.1959 of 2020 and W.P.No.3189 of 2020. It is further submitted that in the last mentioned order has also been complied by the Respondents in the case of a minority institution by an order dated 30.09.2021. Therefore, he submits that the writ petition is deserves to be allowed in the light of the above orders of the Court referred supra.



3. Appearing on behalf of the Respondents, the learned Government Advocate submits that though the Division Bench of the Madurai Bench of Madras High Court has held that G.O.Ms.No.165 dated 17.09.2019 is inoperable in W.A.(MD).No.76 of 2019 etc batch, the Department has appealed before the Hon'ble Supreme Court and therefore submits that this writ petition be deferred pending further orders of the Hon'ble Supreme Court.

4. Heard the learned counsel for the Petitioner and the learned counsel for the Respondents and perused the impugned proceedings and the decisions cited by the learned counsel for the Petitioner.

5. The rejection of the proposal for appointing the Petitioner in the wake of interim order passed by the Madurai Bench of Madras High Court is unsustainable, particularly in the light of the fact that the interim order has been vacated by the Madurai Bench of Madras High Court and consequential Government order in G.O.Ms.No.165 dated 17.09.2019 has been held to be inoperable by the Madurai Bench of Madras High Court in W.A.(MD)No.76 of 2019. The fact that the Respondents may have filed an appeal before the Hon'ble Supreme court is of the consequence as on the date of the disposal of the writ petition as the decision of the Madurai Bench of Madras High Court in the above case finding of all the Respondents including this Court. Further, the appeal is yet to be numbered.

6. This writ petition is therefore allowed by directing the Respondents 2 and 3 to comply with the orders within a period of 12 weeks from the date of receipt of a copy of this order. Needless to state that in case the decision of the Division Bench of the Madurai Bench of Madras High Court is ultimately disturbed by the Hon'ble Supreme Court, the appointment of the Petitioner will be subject to the out come in the above case. No costs. Consequently, connected WMPs are closed.

Sd/-

Assistant Registrar(L.A)

// True Copy //

Sub Assistant Registrar

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To

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

2. The Chief Educational Officer,
Kanchipuram, Kanchipuram District.

3. The District Educational Officer,
Kanchipuram, Kanchipuram District.

4. The Correspondent,
Sri Dhandapani Oriental Higher Secondary School,
Kanchipuram - 631 502.

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.54837

+1cc to the Government Pleader, S.R.No.55843

W.P.No.22832 of 2021

MG(CO)
RLP(22/11/2021)