



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.8049 of 2021

W.M.P. (MD)Nos.6145 & 6147 of 2021

WEB COPY

The Correspondent,
St. Ignatius Convent Higher Secondary School,
Palayamkottai - 627 002.
Tirunelveli District.

... Petitioner

vs.

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

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

3.The District Educational Officer,
Tirunelveli,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent District Educational Officer in O.Mu.No.3659/Aa4/2020, dated 28.10.2020, denying approval to the appointment of Sr.A.Sahaya Teslin as BT Assistant (English), and quash the same and further direct the second respondent CEO to approve forthwith the appointment of Sr.A.Sahaya Teslin as BT Assistant (English) in the petitioner school with effect from 10.09.2019, with all attendant benefits including arrears of salary and allowances.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel for
M/s.Isaac Chambers

For Respondents : Mr.C.M.Mari Chelliah Prabhu,
Addl. Government Pleader for R1 to R3

ORDER

This Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent, District Educational Officer, in O.Mu.No.3659/Aa4/2020, dated 28.10.2020, denying approval to the appointment of Sr.A.Sahaya Teslin as BT Assistant (English), and quash the same and further direct the second respondent CEO to approve forthwith the appointment of Sr.A.Sahaya Teslin as BT Assistant (English) in the petitioner school with effect from 10.09.2019, with all attendant benefits including



arrears of salary and allowances.

2. According to the petitioner, the petitioner school is a minority aided school, owned and administered by the Missionary Sisters of the Immaculate Heart of Mary. In the petitioner school, one post of B.T. Assistant in English fell vacant on 08.09.2019, due to the promotion of then incumbent Tmt. S.Aslin, as PG Assistant on 08.09.2019. In that vacancy, the school appointed one Sr.A.Sahaya Teslin, as BT Assistant (English) w.e.f., 10.09.2019. She joined in service on 10.09.2019 and continues to work in the said post.

3. The petitioner school, immediately after her appointment, submitted necessary proposal to the DEO, vide letter dated 25.01.2019, for approving her appointment for the purpose of disbursement of grant-in-aid towards her salary. However, the DEO returned the same, vide his proceedings, dated 20.02.2020, seeking certain additional details. The petitioner school furnished the same, with suitable reply vide letter dated 23.06.2020. Thereafter, the DEO again returned the proposal, vide impugned proceedings in O.Mu.No.3659/Aa4/2020, dated 28.10.2020, stating that the Government by Letter No.32601/EE2(1)/2019, dated 04.12.2019, instructed not to recruit new appointment until surplus teachers are deployed and returned the proposal.

4. The learned counsel appearing for the petitioner submitted that the reason given in the impugned order is unsustainable, in view of the subsequent order of the Division Bench of this Court in W.A.(MD)No.76 of 2019, dated 20.09.2019. In the said order, this Court has held that G.O.Ms.No.165, School Education Department, dated 17.09.2019, as inoperative and therefore, prayed for setting aside the impugned order.

5.The learned Additional Government Pleader, appearing for respondents 1 to 3 submitted that at the time of appointment, there are surplus teachers in the same management and without appointing a surplus teacher, the petitioner school appointed the petitioner and in view of the same, the impugned order of rejection is valid and prayed for dismissal of this Writ Petition.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials carefully.

7. A reading of the impugned order shows that the third respondent has rejected the request of the petitioner school for approval of appointment of Sr.A.Sahaya Teslin as BT Assistant (English) in the petitioner school referring to G.O.Ms.No.165, School Education Department, dated 17.09.2019. The said Government Order was made inoperative by the Division Bench of this Court in W.A.(MD)No.76 of 2019, by the order dated 31.03.2021. The third respondent, without considering the legal position and subsequent order of this Court, erroneously rejected the proposal of the petitioner school.



8. For the above reason, the impugned order is liable to be set aside and accordingly, the impugned order passed by the third respondent, dated 28.10.2020, is hereby set aside. The respondents are directed to approve the appointment of Sr.A.Sahaya Teslin as BT Assistant (English) in the petitioner school, if she is otherwise eligible and pass orders, in the light of the guidelines issued by the Division Bench of this Court in W.A.(MD)No.76 of 2019, dated 31.03.2021 within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. This Writ Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Director of School Education,
College Road,
Chennai.

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

3.The District Educational Officer,
Tirunelveli,
Tirunelveli District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-17011[F] dated 22/04/2021
+1 CC to M/s.SPL GP (SR-17147[F] dated 22/04/2021)

**W.P(MD)No.8049 of 2021
and**

**W.M.P. (MD)Nos.6145 & 6147 of 2021
21.04.2021**

RK(11.05.2021) 3P 6C