



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.8240 of 2020

and

W.M.P (MD)Nos.7650 & 7651 of 2020

WEB COPY

The Secretary,
MSP Solai Nadar Memorial Higher Secondary School,
No.54/8, G.T.N Salai,
Dindigul District - 624 005. ... Petitioner

vs.

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

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

3.The District Educational Officer,
Dindigul,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writs of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent Chief Educational Officer in Mu.Mu.No.964/E1/2019, dated 19.03.2020, denying approval to the appointment of M.Seema Jasmine as BT Assistant (Science), quash the same and further direct the second respondent CEO to approve forthwith the appointment of M.Seema Jasmine as BT Assistant (Science) in the petitioner-School with effect from 01.06.2018, with all attendant benefits including arrears of salary and allowances.

For Petitioner : Mr.K.Ragatheesh Kumar

For Respondents : Mr.K.S.Selvaganesan
Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to quash the impugned order passed by the second respondent, dated 19.03.2020, denying approval to the appointment of M.Seema Jasmine



as BT Assistant (Science) and to direct the second respondent to approve forthwith the appointment of M.Seema Jasmine as BT Assistant (Science) in the petitioner-School with effect from 01.06.2018, with all attendant benefits including arrears of salary and allowances.

2. According to the petitioner-School, it is a recognized and aided Private School. The post of PG Assistant (Chemistry) fell vacant in the petitioner School on account of promotion of then incumbent R.Jegadeesan Selvaraj as Headmaster on 01.06.2016. In that vacancy, the petitioner School promoted one M.Guruviah, BT Assistant (Science) as PG Assistant (Chemistry) with effect from 27.07.2016. The third respondent, vide proceedings, dated 28.10.2016, approved the promotion of M.Guruviah as PG Assistant (Chemistry) with effect from 27.07.2016. The post of B.T Assistant (Science) fell vacant. The second respondent vide proceedings, dated 18.04.2018, gave permission to the School to fill up the vacant post of B.T Assistant (Science) with eligible candidate under SC category. The petitioner School affixed in the Notice Board of the School and gave advertisement in Newspaper on 20.04.2018 and also requested the District Employment Exchange to sponsor list of eligible candidates for the post of BT Assistant (Science) under SC category.

3. In response to the above, Employment Exchange sponsored two candidates. In response to the advertisement, four candidates applied. Out of six candidates, four candidates attended the interview held on 07.05.2018. On considering the merits and ability of the four candidates, the petitioner found that one M.Seema Jasmine was most suitable candidate to be appointed as B.T Assistant (Science) and appointed her as BT Assistant (Science) with effect from 01.06.2018 vide proceedings of the petitioner School, dated 09.05.2018. She joined on 01.06.2018 and continued to work in the said post. The petitioner School sent a proposal to the third respondent, dated 01.06.2018 for approval of appointment and disbursement of grant-in-aid towards her salary. The second respondent, vide impugned order, dated 19.03.2020, returned the proposal for approval of appointment of said M.Seema Jasmine, referring to the interim order of this Court, dated 09.04.2019 in W.A(MD)No.76 of 2019 etc., batch and also G.O.Ms.No.165, School Education Department, dated 17.09.2019. Challenging the same, the petitioner has come out with the present Writ Petition.

4. The learned counsel appearing for the petitioner School submitted that the second respondent returned the proposal referring to the interim order, dated 09.04.2019 passed by the Division Bench of this Court in W.A(MD)No.76 of 2019 etc., batch and G.O.(Ms) No.165, School Education (Tho.Ka.2(1)) Department, dated 17.09.2019. The second respondent failed to consider the fact that in the very same writ appeal batch, another Division Bench of this Court vide order dated 20.09.2019, suspended the operation of the said Government Order passed in view of earlier interim order until <https://hcservices.courts.gov.in/hcservices/> Thereafter, finally, on 31.03.2021, another Division



Bench of this Court declared the said Government Order as inoperative. The impugned return order of the second respondent is erroneous and non-application of mind and prayed for setting aside the order of the second respondent.

5.The learned Government Advocate appearing for the respondents submitted that if the petitioner school resubmits the proposal, the respondents will pass orders following the guidelines issued by the Division Bench of this Court, dated 31.03.2021 in W.A(MD)No.76 of 2019 etc., batch.

6.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7.The petitioner School, which is a Aided private School, appointed one M.Seema Jasmine as BT Assistant (Science) in the vacancy arose in the sanctioned post, after obtaining permission from the second respondent to fill up the said post. Based on the permission granted, the petitioner school followed due process of selection and appointed one M.Seema Jasmine as BT Assistant (Science) and sent the proposal for approval of said appointment. The second respondent by the impugned proceedings, dated 19.03.2020, returned the proposal sent by the petitioner School for approval of appointment of the said M.Seema Jasmine referring to interim order of the Division Bench of this Court dated 09.04.2019 and G.O.(Ms) No.165, School Education (Tho.Ka.2(1)) Department, dated 17.09.2019, passed pursuant to the said interim order, without considering subsequent order, dated 20.09.2019 and Judgment, dated 31.03.2021 in the very same Writ Appeal batch. In view of the order dated 20.09.2019 and the Judgment dated 31.03.2021 passed in W.A(MD)No.76 of 2019 etc., batch, the impugned proceedings of the second respondent returning the proposal is erroneous and is liable to be set aside and is hereby set aside. The petitioner is directed to re-submit the proposal within a period of two weeks from the date of receipt of a copy of this order. On such re-submission, the second respondent is directed to consider the same taking into consideration the Judgment of the Division Bench of this Court, dated 31.03.2021 and pass orders on merits within a period of two weeks, from the date of receipt of the proposal.

8.With the above directions, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

ps

<https://hcservices.ecourts.gov.in/hcservices/>



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 - 600 006.

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

3.The District Educational Officer,
Dindigul,
Dindigul District.

+1 CC to M/s.SPL GP (SR-24008[F] dated 27/07/2021)

W.P(MD)No.8240 of 2020
26.07.2021

MGJ(31.08.2021) 4P 5C