



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 22.06.2021**

**CORAM:**

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

**W.P(MD)No.10415 of 2021**

**W.M.P. (MD)Nos.8098 & 8100 of 2021**

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The Headmistress & Correspondent  
Regina Caeli Girls Higher Secondary School,  
Ammapettai,  
Thanjavur District-614 401.

... Petitioner

vs.

1.The Government of Tamilnadu,  
Rep by its Secretary,  
Department of Higher Education,  
Fort St. George, Chennai-600 009.

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

3.The Chief Educational Officer,  
Panagal Building,  
Thanjavur District-613 001.

4.The District Educational Officer,  
Orathanaadu,  
Tanjore District-625 531.

... 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 third respondent Chief Educational Officer in in O.Mu.No.1433/A2/2021, dated 08.04.2021 (as signed) and the consequential proceedings issued by the District Educational Officer in O.Mu.No.5961/A3/2019, dated 28.04.2021 (as signed), quash the same and further direct the third and fourth respondents to approve the appointment of Mrs.C.Preetha as B.T. Assistant (Maths) in the petitioner School with effect from the date of her appointment viz., 03.06.2019 and release salary and all attendant benefits with effect from the said date, with all attendant benefits with effect from the said date.



For Petitioner : Mr.K.Ragatheesh Kumar  
for M/s.Isaac Chambers

For Respondents : Mr.P.Subbaraj  
Government Advocate

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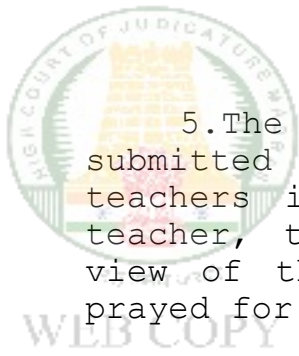
**ORDER**

This Writ Petition is filed to quash the impugned order passed by the third respondent dated 08.04.2021 and the consequential proceedings issued by the fourth respondent, dated 28.04.2021 and further direct the third and fourth respondents to approve the appointment of Mrs.C.Preetha as B.T.Assistant (Maths) in the petitioner's School with effect from the date of her appointment viz., 03.06.2019 and release salary and all attendant benefits with effect from the said date, with all attendant benefits including arrears of salary and allowances.

2. According to the petitioner, the petitioner's School is a minority aided school, owned and administered by the Congregation of the Sisters of St.Anne, Tiruchirapalli. In the petitioner's School, one post of B.T. Assistant (Maths) fell vacant on 03.06.2019, due to the retirement of then incumbent Mrs.R.Jayanthi on 31.05.2019. In that vacancy, the school appointed one Mrs.C.Preetha, as B.T. Assistant (Maths) w.e.f., 03.06.2019. She joined in service on 03.06.2019 and continues to work in the said post.

3. The petitioner's School, immediately after her appointment, submitted necessary proposal to the DEO, vide letter dated 20.09.2019, for approving her appointment for the purpose of disbursement of grant-in-aid towards her salary. However, the DEO kept the petitioner's proposal pending for no reason. In the meantime, the third respondent Chief Educational Officer, vide his proceedings in O.Mu.No.1433/A2/2021, dated 08.04.2021, returned the proposal stating that as per the order in Public Interest Litigation in W.P.No.31575 of 2019 and W.M.P.No.31774 of 2019, dated 08.11.2019, only after deployment of the surplus staff is completed, action can be initiated in respect of appointment made in teaching posts. Thereafter, the fourth respondent returned the proposal for approval of appointment citing the above proceedings of the third respondent.

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 31.03.2021. 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 Government Advocate appearing for respondents submitted that at the time of appointment, there are surplus teachers in the same Management and without deploying a surplus teacher, the petitioner's 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 Government Advocate appearing for the respondents and perused the materials carefully.

7. A reading of the impugned order shows that the third respondent has rejected the request of the petitioner's School for approval of appointment of Mrs.C.Preetha as B.T. Assistant (Maths) in the petitioner's School referring to the order passed by the Division Bench of this Court, dated 08.11.2019, in W.P.No.31575 of 2019 and W.M.P.No.31574 of 2019, wherein the Division Bench of this Court directed the respondents 4 to 6 therein to take immediate and necessary steps to deploy the surplus teachers in Government run Middle Schools and High Schools and till such deployment is completed, there cannot be any recruitment to the said post, until further orders.

8. From the materials available on record, it is seen that in compliance of the order of interim direction, dated 09.04.2019, in W.A.(MD)Nos.76, 225, 341 of 2019, 1612, 1076, 1093, 1461, 1473 and 1531 of 2018, the fourth respondent in W.P.No.31575 of 2019 had passed G.O.(Ms)No.165 School Education Department, dated 17.09.2019, giving guidelines for utilizing the services of surplus teachers in Aided Minority Schools, Non-Minority Schools, Primary Schools, High Schools and Higher Secondary Schools and the said order was put to challenge in W.A(MD) No. 76 of 2019 and the Division Bench of this Court had entertained the Writ Appeal and suspended the portion of the said Government Order until further orders, vide order dated 20.09.2019. Subsequently, the said Government Order was made as 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's School.

9. For the above reason, the impugned order is liable to be set aside and accordingly, the impugned order passed by the third respondent, dated 08.04.2021, is hereby set aside. The respondents are directed to approve the appointment of Mrs.C.Preetha as B.T. Assistant (Maths) in the petitioner's 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.



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

Sd/-

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Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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**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 Secretary,  
Department of Higher Education,  
Fort St. George, Chennai-600 009.
- 2.The Director of School Education,  
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,  
Panagal Building,  
Thanjavur District-613 001.
- 4.The District Educational Officer,  
Orathanaadu,  
Tanjore District-625 531.

+1 CC to M/s.ISAAC CHAMBERS, Advocate SR-19881[F] dated 22/06/2021  
+1 CC to M/s.SPL GP ( SR-20020[F] dated 23/06/2021 )

**W.P(MD)No.10415 of 2021  
22.06.2021**

ac(CO)  
TR(30.06.2021) 4P 7C