



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10793 of 2021

W.M.P. (MD)Nos.8428 of 2021

WEB COPY

R.Sebastian Lourdu

... Petitioner

vs.

1.The Chief Educational Officer,
Sivagangai, Sivagangai District.

3.The District Educational Officer,
Sivagangai, Sivagangai District.

3.The Correspondent,
St. Mary's Higher Secondary School,
Rajakambiram - 630 609
Sivagangai 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 proceedings issued by the 2nd respondent District Educational Officer vide impugned proceeding in O.Mu.No.3694/a5/2021, dated...06.2021 quash the same and further direct the respondents 1 and 2 herein to approve forthwith the appointment of petitioner as BT Assistant in Maths in the third respondent school namely St.Mary's Higher Secondary School, Rajakambiram w.e.f., 12.06.2019 and to disburse the grant-in-aid towards his salary and other attendant benefits.

For Petitioner : Mrs.A.Amala

For Respondents : Mr.P.Subbaraj,
Government Advocate for R1 & R2.

ORDER

This Writ Petition is filed to quash the impugned proceedings issued by the second respondent District Educational Officer vide impugned proceeding in O.Mu.No.3694/a5/2021, dated ...06.2021, and further direct the respondents 1 and 2 herein to approve forthwith the appointment of the petitioner as BT Assistant in Maths in the third respondent school namely St.Mary's Higher Secondary School, Rajakambiram w.e.f., 12.06.2019 and to disburse the grant-in-aid towards his salary and other attendant benefits.

2. According to the petitioner, he was appointed as BT Assistant in Maths in the third respondent school viz., St. Mary's Higher Secondary School, Rajakambiram, which is a recognized and



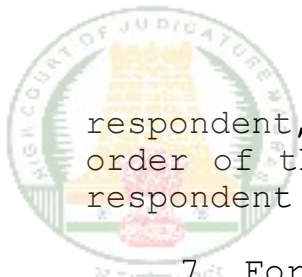
aided Minority Educational Institution owned and administered by the Roman Catholic Diocese of Sivagangai. In the third respondent school one post of B.T. Assistant in Maths fell vacant on 01.04.2019, due to the retirement of the previous incumbent Tmt.L.Mary Komala on 31.03.2019. In that vacancy, the third respondent school appointed the petitioner as BT Assistant in Maths w.e.f., 12.06.2019. The third respondent school submitted necessary proposal to the second respondent, DEO on 14.08.2019, for approving the petitioner's appointment and disburse grant-in-aid towards his salary. The second respondent DEO had forwarded the proposal to the 1st respondent CEO vide proceeding in Na.Ka.No.3694/a5/2020, dated12.2020. On receipt of the communication of the proposal, the 1st respondent, CEO vide proceeding in O.Mu.No.7352/a2/2020, dated ...12.2020, returned the proposal seeking for certain clarifications. The third respondent school furnished the same, with detailed reply. Accepting the explanation of the third respondent school, the second respondent DEO, recommended the first respondent CEO to approve the appointment of the petitioner as BT Assistant in Maths in the third respondent school. However, the second respondent, vide impugned proceeding in O.Mu.No.3694/a5/2021, dated ... 06.2021, refused to approve the appointment of the petitioner, citing G.O.Ms.No.165, School Education Department, dated 17.09.2019 and further stating that appointment was made after the order of this Court dated 09.04.2019.

3. 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.

4. The learned Government Advocate, appearing for the respondents 1 and 2 submitted that at the time of appointment, there are surplus teachers in the third respondent school and without appointing a surplus teacher, the third respondent 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.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2 and perused the materials carefully.

6. A reading of the impugned order shows that the second respondent has rejected the request of the third respondent school for approval of appointment of the petitioner as BT Assistant in Maths in the third respondent 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 third respondent school.

7. For the above reason, the impugned order is liable to be set aside and accordingly, the impugned order passed by the second respondent, vide impugned proceeding in O.Mu.No.3694/a5/2021, dated ..06.2021, is hereby set aside. The respondents are directed to approve the appointment of the petitioner in the third respondent school, if he 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.

8. This Writ Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is 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 Chief Educational Officer,
Sivagangai, Sivagangai District.

3.The District Educational Officer,
Sivagangai, Sivagangai District.

+1 CC to M/s.A.AMALA, Advocate (SR-20778[F] dated 30/06/2021)
+1 CC to M/s.SPL GP (SR-20882[F] dated 01/07/2021)

**W.P(MD)No.10793 of 2021
and W.M.P. (MD)No.8428 of 2021
30.06.2021**

ARK(CO)

TR(19.07.2021) 3P 5C