



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.12021 of 2021

and

W.M.P. (MD) Nos.9475 & 9476 of 2021

Muslim Higher Secondary School
Abiramam
Ramanathapuram District
rep.by its Correspondent
V.M.Kader Meera Gani

... Petitioner

-vs-

1.The Chief Educational Officer
O/o.The Chief Educational Officer
Ramanathapuram, Ramanathapuram District

2.The District Educational Officer
O/o.The District Educational Officer
Paramakudi, Ramanathapuram District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the second respondent in his proceedings in நக.எண்.5145/ஆ1/2020, dated 15.09.2020 and quash the same as illegal and consequently to direct the respondents to approve the appointment of A.Ali Akber Riyas as B.T.Assistant (Social Science) w.e.f.03.07.2019 and pay arrears of salary with all consequential benefits arising thereon.

For Petitioner : Mr.C.Venkatesh Kumar.C.
For M/s.Ajmal Associates

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.S.Shanmugavel
Government Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order, dated 15.09.2020, passed the second respondent and to direct the respondents to



approve the appointment of A.Ali Akber Riyas as B.T.Assistant (Social Science) with effect from 03.07.2019 and to pay arrears of salary with all consequential benefits arising thereon.

2. According to the petitioner, their School is a Minority Aided School. On 31.05.2018, one Salima, a Secondary Grade Teacher, retired from service on attaining the age of superannuation. Thereafter, the said Secondary Grade Teacher post was converted as B.T.Assistant (Social Science) vide proceedings of the first respondent, dated 02.07.2019. Subsequently, they appointed one Ali Akber Riyas as B.T.Assistant (Social Science) on 03.07.2019. Thereafter, on 24.07.2019, they forwarded a proposal to the first respondent, through the second respondent, seeking approval for the appointment of the said Ali Akber Riyas as B.T.Assistant (Social Science). However, the second respondent has returned the proposal asking for certificate from the first respondent stating that there is no surplus post in B.T.Assistant (Social Science) in the Revenue District in terms of G.O.Ms.No.165, School Education Department, dated 17.09.2019. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that based on the interim order, dated 09.04.2019 in W.A.(MD) No.76 of 2019, granted by the Honourable Division of this Court, the said G.O.Ms.No.165, dated 17.09.2019 was passed. Thereafter, the said writ appeal was taken up for final disposal and the same was disposed by Judgment dated 31.03.2021. Therefore, the impugned order dated 23.12.2020 is liable to be set aside. The learned counsel for the petitioner would further submit that there is no surplus teacher in the petitioner School and the reason as stated in the impugned order is unsustainable in the light of the final orders passed in the aforesaid writ appeal and therefore, prayed for setting aside of the impugned order.

4. Heard Mr.Veera.Kathiravan, learned Additional Advocate General, assisted by Mr.S.Shanmugavel, learned Government Counsel, appearing for the respondents on the above submissions.

5. On perusal of the impugned order, it is seen that the proposal submitted by the petitioner School seeking approval for appointment of one Ali Akber Riyas as B.T.Assistant (Social Science) was returned asking for certificate from the first respondent stating that there is no surplus post in B.T.Assistant (Social Science) in the Revenue District in terms of G.O.Ms.No.165, School Education Department, dated 17.09.2019. Therefore, the petitioner School has to make necessary explanation before the second respondent regarding compliance with the conditions as required for approving the post of B.T.Assistant.

6. In the result,

- (i) The writ petition is allowed;
- (ii) The impugned order dated 15.09.2020 is quashed;
- (iii) The matter is remitted back to the file of the second respondent for fresh consideration;



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W.P.(MD) No.12021 of 2021

- (iv) The petitioner School is directed to make explanation before the second respondent regarding compliance with the conditions as required for approving the post of B.T.Assistant forthwith.
- (v) If any such explanation is submitted, the second respondent shall consider the same and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.
- (vi) No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
O/o.The Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.
- 2.The District Educational Officer,
O/o.The District Educational Officer,
Paramakudi,
Ramanathapuram District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-29903[F] dated 22/09/2021)

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and

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MGJ(29.09.2021) 3P 4C

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