



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.11913 of 2021

and

W.M.P(MD)Nos.9350 & 9351 of 2021

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The Correspondent,
Punitha Arokia Annai Primary School,
Annai Nagar,
Pulvayal Post,
Pudukottai District - 622 104.

... Petitioner

vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of School Education,
College Road,
Chennai - 600 006.
- 3.The District Educational Officer,
Illupur,
Pudukottai District.
- 4.The Block Educational Officer,
Anna Vasal,
Pudukottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the third respondent/District Educational Officer in O.Mu.No.2000/A2/2020, dated 29.06.2021, denying approval to the appointment of S.Sebasteen Suganya as Secondary Grade Teacher and quash the same and further direct the third respondent/District Educational Officer to approve forthwith the appointment of S.Sebasteen Suganya as Secondary Grade Teacher in the petitioner-School with effect from 01.08.2019 with all attendant benefits including arrears of salary and allowances.

For Petitioner	: Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers
For Respondents	: Mr.K.S.Selvaganesan Government Advocate

**ORDER**

The petitioner has filed the present Writ Petition, to quash the impugned order issued by the third respondent, dated 29.06.2021, denying approval to the appointment of S.Sebasteen Suganya as Secondary Grade Teacher and to direct the third respondent to approve forthwith the appointment of S.Sebasteen Suganya as Secondary Grade Teacher in the petitioner-School with effect from 01.08.2019 with all attendant benefits including arrears of salary and allowances.

2.According to the petitioner-School, it is a recognized aided Minority Institution. The School is sanctioned with only two teaching posts viz., 1 Head Master and 1 Secondary Grade Teacher. The post of Secondary Grade Teacher fell vacant on 01.08.2019 due to the promotion of the then incumbent R.Velkan as Headmistress on 31.07.2019. In that vacancy, the petitioner School appointed one S.Sebasteen Suganya as Secondary Grade Teacher with effect from 01.08.2019 and she joined on that day. The petitioner school submitted a proposal to the fourth respondent on 10.08.2019, for giving approval to the appointment of the said Secondary Grade Teacher and the fourth respondent forwarded the same to the third respondent. The third respondent returned the proposal by raising certain queries. After several returns and rectifying the mistakes, the third respondent, by impugned order, dated 29.06.2021, declined to approve the appointment of the petitioner. Challenging the same, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner School submitted that at the time of passing the impugned order, the third respondent referring 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 Department dated 17.09.2019 returned the proposal for approval of appointment of S.Sebasteen Suganya as Secondary Grade Teacher in the petitioner School with effect from 01.08.2019, stating that only after deployment of surplus Teachers, the proposals seeking approval can be considered. The learned counsel for the petitioners submitted that subsequently, in the writ appeal batch, another Division Bench of this Court, vide order dated 20.09.2019, suspended the operation of the said Government Order until further orders. Thereafter, finally, on 31.03.2021, another Division Bench of this Court in the same Writ Appeal batch declared the said Government Order as inoperative and hence, the reason given by the third respondent is not valid and prayed for allowing the Writ Petition.

4.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 in W.A(MD)No.76 of 2019 etc., batch



dated 31.03.2021.

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

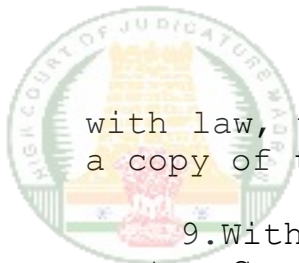
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6. The petitioner School, which is a recognized aided minority institution, appointed one S. Sebasteen Suganya as Secondary Grade Teacher in the vacancy that arose due to the promotion of R. Velkan as Headmistress. The third respondent, by the impugned order, dated 29.06.2021, returned the proposal of the petitioner School for approval of appointment of S. Sebasteen Suganya as Secondary Grade Teacher, by 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 Department dated 17.09.2019 stating that only after deployment of surplus Teachers, the proposal seeking approval can be considered.

7. The petitioner School, which is a Minority Institution, can fill up the sanctioned vacancy without obtaining prior permission. Subsequent to the said interim order, dated 09.04.2019 in W.A(MD) No.76 of 2019 etc., batch referred in the impugned order by the third respondent and G.O.Ms.No.165, School Education Department, dated 17.09.2019, another Division Bench of this Court by order, dated 20.09.2019, considering the said issue in the very same Writ Appeal, has suspended the operation of G.O.(Ms)No.165, School Education Department, dated 17.09.2019, passed in pursuant to the interim order, dated 09.04.2019 in W.A(MD)No.76 of 2019 etc., batch, until further orders. Subsequently, another Division Bench of this Court took up W.A(MD)No.76 of 2019 etc., batch for final hearing and considered the issue in detail, vide judgment dated 31.03.2021, in Para 95(o) declaring the said Government Order as inoperative. The relevant portion of the said judgment reads as follows:-

"95. (o) In view of the aforesaid, the G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department, dated 17.09.2019 is hereby declared to be inoperative."

8. In view of the subsequent interim order, dated 20.09.2019 and judgment dated 31.03.2021 made in W.A(MD)No.76 of 2019 etc., batch, the reliance placed by the third respondent in the impugned order for returning the proposal based on the interim order of the Division Bench of this Court, dated 09.04.2019 is erroneous. Hence, the impugned order passed by the third respondent, dated 29.06.2021, is liable to be set aside and is hereby set aside. The petitioner School 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 third 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 and in accordance



with law, within a period of two weeks, from the date of receipt of a copy of the proposal.

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

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Sd/-

Assistant Registrar (T&P)

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/ /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 Secretary,
Represented by the State of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of School Education,
College Road,
Chennai - 600 006.
3. The District Educational Officer,
Illupur,
Pudukottai District.
4. The Block Educational Officer,
Anna Vasal,
Pudukottai District.

+1 CC to M/s.SPL GP (SR-22910[F] dated 16/07/2021)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-22880[F] dated 16/07/2021)

W.P(MD)No.11913 of 2021
15.07.2021

ES(CO)

KB(02.09.2021) 4P 7C