



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.12456 of 2021

and

W.M.P(MD)Nos.9755, 9756 & 9759 of 2021

R.C.Convent Middle School,
Through its Correspondent,
Sister Mariya Chrisilda

... Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.

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

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

4.The District Educational Officer,
Dindigul District,
Dindigul.

5.The Block Educational Officer,
Sanarpatti Education Block, Sanarpatti,
Dindigul 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 pertaining to the impugned order passed by the fifth respondent vide proceedings in Na.Ka.No.375/A3/2021, dated 09.07.2021 and quash the same as illegal and consequently direct the respondents 3 and 4 to approve forthwith the appointment of Mrs.S.Ignatius Jebakani Pramila, Secondary Grade Teacher in the sanctioned post in the petitioner's School with effect from the date of her appointment viz., 25.02.2021 and release salary and all attendant benefits with effect from the said date within the time stipulated by this Court.



For Petitioner
For Respondents

: Mr.J.Lawrance
: Mr.K.S.Selvaganesan
Government Advocate

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ORDER

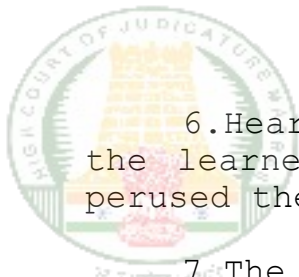
The petitioner has filed the present Writ Petition, to quash the impugned order passed by the fifth respondent, dated 09.07.2021 and to direct the respondents 3 and 4 to approve forthwith the appointment of Mrs.S.Ignatius Jebakani Pramila, Secondary Grade Teacher in the sanctioned post in the petitioner's School with effect from the date of her appointment viz., 25.02.2021 and release salary and all attendant benefits with effect from the said date.

2.According to the petitioner School, it is a minority school, owned and administered by the Sisters of the Immaculate Heart of Mary. In the petitioner school, one post of Secondary Grade Teacher fell vacant 30.10.2019, due to the death of one Secondary Grade Teacher, namely, L.Juliet Avilatheras. In that vacancy, the petitioner School appointed one Ignatius Jebakani Pramila as Secondary Grade Teacher with effect from 25.02.2021.

3.The petitioner school, immediately after her appointment, submitted necessary proposal through the fifth respondent to the fourth respondent, vide letter, dated 24.03.2021, for approving her appointment for the purpose of disbursement of grant-in-aid towards her salary. However, the fifth respondent, vide proceedings, dated 09.07.2021, returned the proposal stating that the fourth respondent vide proceedings, dated 28.06.2021, refused to approve the said appointment on the ground that as per G.O(Ms)No.165, School Education (Tho.Ka.2(1)) Department, dated 17.09.2019, no new appointment of Secondary Grade Teacher shall be made.

4.The learned counsel appearing for the petitioner School submitted that at the time of passing the impugned order, the fifth respondent referred to G.O.(Ms)No.165, School Education (Tho.Ka.2(1)) Department, dated 17.09.2019, which was passed pursuant to the interim order, dated 09.04.2019 by the Division Bench of this Court in W.A(MD)No.76 of 2019 etc., batch. Subsequently, in the same 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 declared the said Government Order as inoperative.

5.The learned Government Advocate appearing for the respondents submitted that if the petitioner school resubmitted the proposal, the respondents will pass orders following the guidelines issued by the Division Bench of this Court, dated 31.03.2021.



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 Minority Private Aided School, appointed one Ignatius Jebakani Pramila as Secondary Grade Teacher in the vacancy arose due to the demise of one L. Juliet Avilatheras and sent the proposal for approval of said appointment. The fifth respondent by the impugned order, dated 09.07.2021, returned the request of the petitioner School for approval of appointment of Ignatius Jebakani Pramila as Secondary Grade Teacher with effect from 25.02.2021.

8. The petitioner School, which is a Minority Institution, can fill up the sanctioned vacancy without obtaining prior permission. Subsequent to G.O.Ms.No.165, School Education Department, dated 17.09.2019, which was passed pursuant to the interim order, dated 09.04.2019 in W.A(MD)No.76 of 2019 etc., batch, another Division Bench of this Court 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, by order, dated 20.09.2019, 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) declared 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."

9. 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 fifth respondent in the impugned order for return of the proposal based on G.O.(Ms)No.165, School Education Department, dated 17.09.2019, is erroneous. Hence, the impugned order passed by the fifth respondent, dated 09.07.2021, is liable to be set aside and hereby set aside. The petitioner School is directed to re-submit the proposal for appointment of Ignatius Jebakani Pramila as Secondary Grade Teacher within a period of two weeks from the date of receipt of a copy of this order. On receipt of such proposal, the fifth respondent is directed to approve the appointment of the said Ignatius Jebakani Pramila as Secondary Grade Teacher with effect from 25.02.2021 and pass orders on merits within a period of two weeks, thereafter, taking into consideration of the Judgment of the Division Bench of this Court, dated 31.03.2021 made in W.A(MD)No.76 of 2019 etc., batch and sanction and disburse all the monetary benefits to the said Ignatius Jebakani Pramila.



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

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

ps

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, The Government of Tamilnadu
Department of School Education,
Fort St. George,
Chennai - 600 009.

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

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

4. The District Educational Officer,
Dindigul District,
Dindigul.

5. The Block Educational Officer,
Sanarpatti Education Block, Sanarpatti,
Dindigul District.

+1 CC to M/s.J.LAWRENCE, Advocate (SR-23778[F] dated 23/07/2021)

W.P (MD) No.12456 of 2021
23.07.2021

CM(CO)

KB(05.08.2021) 4P 7C