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W.P.(MD) Nos.18629 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.18629 of 2020

and

W.M.P. (MD) Nos.15584 & 15585 of 2020

Jothi Higher Secondary School
Narimedu
Madurai
rep.by its Correspondent R.Arun

... Petitioner

-vs-

1.The Director of School Education
O/o.The Directorate of School Education
DPI Compound, College Road
Chennai-6

2.The Chief Educational Officer
O/o.The Chief Educational Officer
Madurai, Madurai District

3.The District Educational Officer
O/o.The District Educational Officer
Melur, Madurai 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 issued by the third respondent in his proceedings in நக.எண்.3523/ஆ4/2020, dated 24.10.2020 and quash the same as illegal and consequentially to direct the third respondent to approve the appointment of S.Vallinayaki as B.T.Assistant (Science) w.e.f.02.03.2020 with all other attendend monetary benefits within the period stipulated by this Court.

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 24.10.2020, passed by the third respondent and to direct the third respondent to approve the appointment of S.Vallinayaki as B.T.Assistant (Science) with effect from 02.03.2020 with all other attendant monetary benefits, within the period stipulated by this Court.

2. According to the petitioner, their School is a Minority Aided School. On 02.03.2020, they appointed one Vallinayaki as B.T.Assistant (Science) in the vacancy arose due to the superannuation of one Jeyaraman, B.T.Assistant (Science). Thereafter, on 13.03.2020, they submitted a proposal to the third respondent seeking approval for the appointment of the said Vallinayaki as B.T.Assistant (Science). However, the third respondent has returned the proposal stating that the approval as sought for would be considered after deployment of surplus teachers, if any. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the impugned order was passed based on the G.O.Ms.No.165, dated 17.09.2019 and the said Government Order was passed based on the interim order, dated 09.04.2019 in W.A.(MD) No.76 of 2019. 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 Vallinayaki as B.T.Assistant (Science) was returned stating that after deployment of surplus teachers, approval sought for would be granted. Therefore, the petitioner School has to make necessary explanation before the third 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 24.10.2020 is quashed;
- (iii) The matter is remitted back to the file of the third respondent for fresh consideration;
- (iv) The petitioner School is directed to make explanation before the third respondent



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regarding compliance with the conditions as required for approving the post of B.T.Assistant forthwith.

(v) If any such explanation is submitted, the third 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)

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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 Director of School Education,
O/o.The Directorate of School Education,
DPI Compound, College Road, Chennai-6.
- 2.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Madurai, Madurai District.
- 3.The District Educational Officer,
O/o.The District Educational Officer,
Melur, Madurai District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-29901[F] dated 22/09/2021)

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MGJ(29.09.2021) 3P 5C

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