



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 23.06.2021**

**CORAM:**

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

**W.P. (MD)No.20857 of 2019**

**and**

**W.M.P (MD)Nos.17437, 17439 & 17441 of 2019**

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Sri Onnuramaswamy Middle School,  
Thevaram,  
Theni District,  
Rep. by its President,  
O.R.Sudandradoss.

... Petitioner

Vs.

1.The State of Tamilnadu,  
Rep. by its Secretary to Government,  
School Education Department,  
St. George Fort,  
Chennai-9.

2.The Director of Elementary Education,  
O/o.the Directorate of Elementary Education,  
DPI Compound,  
College Road, Chennai-6.

3.The Chief Educational Officer,  
O/o.the Chief Educational Officer,  
Theni,  
Theni District.

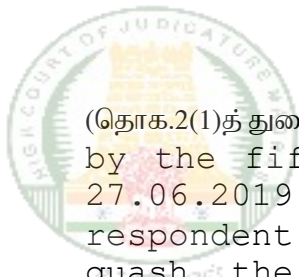
4.The District Educational Officer,  
O/o.the District Educational Officer,  
Uthamapalayam,  
Theni District.

5.The Block Educational Officer,  
O/o.the Block Educational Officer,  
Uthamapalayam,  
Theni District.

... Respondents

PRAYER: Writ Petition 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 first

<https://hccs.courts.mil/hccs-services> சென்னை (நிலை) எண்.165 பள்ளிக் கல்வி



(தொக.2(1)துறை dated 17.09.2019 and consequential impugned order passed by the fifth respondent in his proceedings in அதிமு.எண்.974/அ2/19 dated 27.06.2019 and the consequential impugned order passed by the fourth respondent in his proceedings in ந.க.எண்.4427-ஆ2-2019 dated 21.08.2019 and quash the same as illegal and consequentially to direct the respondents to approve the appointment of the petitioner as B.T.Assistant (English) w.e.f., 06.06.2019 with all attendant monetary benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar  
for M/s.Ajmal Associates  
For Respondents : Mr.P.Subbaraj  
Government Advocate

### **ORDER**

This writ petition is filed to quash the impugned order of the first respondent, vide G.O.(Ms)No.165, School Education Department, dated 17.09.2019 and consequential impugned order passed by the fifth respondent, vide அதிமு.எண்.974/அ2/19, dated 27.06.2019 and the consequential impugned order passed by the fourth respondent, vide ந.க.எண்.4427-ஆ2-2019, dated 21.08.2019 and consequently, to direct the respondents to approve the appointment of the petitioner as B.T.Assistant (English) w.e.f., 06.06.2019 with all attendant and monetary benefits.

2. The petitioner's School is a private aided Linguistic Minority School. In the said School, incumbent Head Master namely, O.R.Mohan Rajan retired from service on 31.05.2019 on attaining the age of superannuation. In the said vacancy, one R.Veeralakshmi, who worked as B.T. Assistant (Science), was promoted as Headmistress on 06.06.2019. The said promotion was approved by the fourth respondent, by his proceedings, dated 16.08.2019. The petitioner filled up the vacancy of B.T.Assistant post by appointing one Deepika B.T.Assistant (English) on 06.06.2019 and sent proposals for conversion of post from B.T. Assistant (Science) to B.T. Assistant (English) and approval of appointment of the said Deepika. The fifth respondent, by the impugned proceedings dated 27.06.2019, rejected the approval for appointment relying on 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 relying on G.O.(Ms)No.165, School Education Department, dated 17.09.2019. Subsequently, the fourth respondent, vide order dated 21.08.2019, rejected the proposal of the petitioner by relying upon the interim order passed by the Division Bench of this Court, dated 09.04.2019, in W.A.(MD)Nos.76 of 2019 etc. batch. The petitioner has come out with the present writ petition challenging the said orders.



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

4. From the impugned orders, it is seen that the request of the petitioner School for conversion of post was rejected on the ground that the vacancy arose in the petitioner School is only B.T. Assistant (Science) and not B.T. Assistant (English) by relying upon the order passed by the Division Bench of this Court, dated 09.04.2019, in W.A.(MD)Nos.76 of 2019 etc. batch. The said reasoning is erroneous. The petitioner School is a Middle School, where one B.T. Assistant (Science) is already working as Headmistress and therefore, need of petitioner School is only B.T. Assistant (English). Appointment of B.T.Assistant (Science) in the petitioner School will be redundant. The fifth respondent failed to consider the need of the petitioner School and in a mechanical manner, returned the proposal submitted by the petitioner School. As far as the proposal for approval of the appointment of Deepika B.T.Assistant (English) is concerned, the fourth respondent has rejected the proposal by relying on 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. 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 passed in pursuant to the interim order dated 09.04.2019 in W.A(MD)No.76 of 2019 etc., batch, by order, dated 20.09.2019, until further orders. Subsequently, another Division Bench of this Court taken 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."*

5. 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 reason given by the respondents 4 and 5 for rejecting the proposal for approval of the appointment of Deepika is erroneous. Hence, the impugned orders passed by the respondents 5 and 4, dated 27.06.2019 and 21.08.2019 respectively, are set aside. The prayer challenging G.O.(Ms)No.165, School Education Department, dated 17.09.2019, has become infructuous. The petitioner is directed to resubmit the proposal to the fourth respondent. On receiving such proposal, the fourth respondent is directed to consider the same and grant approval as per law prevailing at present.



6. With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Secretary to Government,  
School Education Department,  
St. George Fort,  
Chennai-9.
- 2.The Director of Elementary Education,  
DPI Compound,  
College Road, Chennai-6.
- 3.The Chief Educational Officer,  
Theni, Theni District.
- 4.The District Educational Officer,  
Uthamapalayam,  
Theni District.
- 5.The Block Educational Officer,  
Uthamapalayam,  
Theni District.

+1 CC to M/s.SPL GP ( SR-20151[F] dated 24/06/2021 )

+1 CC to M/s.AJMAL ASSOCIATES, Advocate ( SR-20068[F] dated 24/06/2021 )

**W.P. (MD)No.20857 of 2019**  
**23.06.2021**

KK 09.07.2021 4P-8C