



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 3063 of 2017

and

W.M.P. (MD) No. 2442 of 2017

A.Sumitha Gold

... Petitioner

-vs-

1. The Additional Assistant Elementary,
Education Officer,
Vilathikulam,
Thoothukudi District-628 907.

2. The District Elementary Educational Officer,
Thoothukudi District,
Thoothukudi.

3. The Correspondent,
St. Antony's Primary School,
Periyasampuram,
Vilathikulam,
Thoothukudi District.

4. The Manager,
RC Diocese Schools,
Tuticorin Diocese,
Bishops House,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the impugned order in A.Thi.Mu.No.40/A1/2017 dated 11.01.2017 on the file of the First Respondent and quash the same and further directing the First and Second Respondents to approve the Petitioner as an Assistant Secondary Grade Teacher with the Third Respondent School from 15.12.2016.

For Petitioner	:	Mr. G.Prabhu Rajadurai
For R1 and R2	:	Mr. B.Saravanan, Counsel appearing for the Government
For R3 and R4	:	Mr.R.Ganeshprabhu



O R D E R
(through video conference)

Heard Mr. G.Prabhu Rajadurai, Learned Counsel for the Petitioner, Mr. B.Saravanan, Learned Counsel representing the First and Second Respondents and Mr. R.Ganeshprabhu, Learned Counsel appearing for the Third and Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent, which is a minority educational institutions established and administered by the Fourth Respondent, is a private school receiving grant-in-aid from the Government of Tamil Nadu for payment of salaries to its teachers. The Petitioner was appointed as Assistant Secondary Grade Teacher against a vacancy in the school of the Third Respondent by Order in Ref. No. APT/2016-2017/42 dated 15.12.2016 passed by the Fourth Respondent and claims that she has joined duty on 19.12.2016 and has been working as teacher in the said school from then onwards. When the Third and Fourth Respondents forwarded the proposal of the said appointment of the Petitioner for approval to the First and Second Respondents, it was returned by Order in A.Thi.Mu.No.40/Aa1/2017 dated 11.01.2017 passed by the First Respondent stating that such appointment in the relevant vacancy could not be made by way of fresh recruitment and that it had to be filled by way of re-deployment of excess teachers in other schools under the management of the Fourth Respondent. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the same.

3. It is brought to notice that the contentious issues relating to granting of approval for appointment of teachers in aided private schools falling under the management of educational institutions establishing more than one school has been extensively delved into by the Division Bench of this Court in **Secretary to Government -vs- Iruthaya Amali** (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch) and has disposed those cases remitting the matter for fresh consideration before the concerned authority in terms of the directions issued therein. It is accepted by Learned Counsel for both parties that the instant Writ Petition is also one such matter covered by that authoritative pronouncement of this Court, which now holds the field.

4. Having regard to the aforesaid submissions made, the Writ Petition is disposed on the following terms:-

- (i) the impugned Order in A.Thi.Mu.No.40/Aa1/2017 dated 11.01.2017 passed by the First Respondent is set aside and the matter is remitted for considering the matter afresh in accordance with the directions issued by the Division Bench of this Court in **Secretary to Government -vs- Iruthaya Amali** (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch);



- (ii) the concerned authority shall immediately consider the claim of the Petitioner for approval of her appointment in the school of the Third Respondent for grant of aid for payment of her salary, if she is otherwise eligible for the same;
- (iii) if it is found that the Petitioner has not produced any details or supporting documents satisfying the eligibility criteria for the benefits claimed, the deficiencies in that regard shall be informed in writing to her and the Third Respondent requiring the same to be furnished within a time frame of not less than 10 working days;
- (iv) in the event of the concerned authority not being satisfied with the compliance of the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and the Third Respondent to explain their position in that regard and the concerned authority shall pass reasoned orders dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken to the concerned parties under written acknowledgment;
- (v) if the Petitioner is entitled to the claim made, it shall be ensured that the eligible amount of arrears of salary is paid within one month from the date of passing of that order, apart from the monthly salary for future months on the due dates;
- (vi) report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court and the Writ Petition shall be listed on 08.11.2021 along with W.A. (MD) No. 76 of 2019 etc., batch;
- (vii) consequently, the connected Miscellaneous Petition is closed; and
- (viii) there shall be no order as to costs.

Sd/-

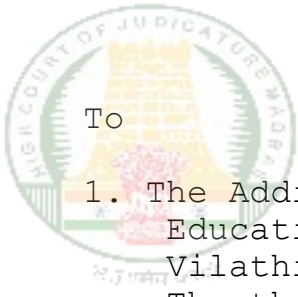
Assistant Registrar (Records)

// 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

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Copy to

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.SPL GP (SR-24192[F] dated 28/07/2021)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-24164
[F] dated 28/07/2021)

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NSN(CO)
KB(21.09.2021) 4P 8C