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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.4.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.4414 of 2020, 6421, 6424 & 6430 of 2022
and 10207 of 2022

W.M.P.Nos.6509, 6514, 6520, 9912 of 2022

S.Christilda Shageela Rani

... Petitioner in W.P.No.4414 of 2020

Christabel Ann Thomas

... Petitioner in W.P.No.6421 of 2022

S.Rosy

... Petitioner in W.P.No.6424 of 2022

M.Vinolia

... Petitioner in W.P.No.6430 of 2022

S.Rosline

... Petitioner in W.P.No.10207 of 2022

Vs.

W.P.No.4414 of 2020

- 1 The State of Tamil Nadu
Rep. by its Secretary, Education Department,
Fort St.George, Chennai 600 009.
- 2 The District Educational Officer,
Cuddalore District.
- 3 The Block Education Officer,
Cuddalore.
- 4 The Correspondent
Danish Mission Elementary School
Vilvarayanatham Cuddalore.
- 5 The Central Manager and Chairman,
Education Board D.M.Elementary Higher
Elementary School, Parikkal,
Cuddalore Dist. ...Respondents



W.P.No.6421, 6424 & 6430 of 2022 :

- 1 The Commissioner of School Education,
The Directorate Of School Education,
DPI Campus, College Road,
Chennai 600 006.
- 2 The Chief Educationl Officer,
Office of The Chief Educational Officer,
Presidency School Campus, Egmore,
Chennai 600 008.
- 3 The District Educational Officer,
The Office of The District Educational
Officer, Ambedkar School, Egmore,
Chennai 600 008.
- 4 The Correspondent
Holy Angels Anglo Indian Higher Secondary
School, 107, Sir Theyagaraya Road,
T. Nagar, Chennai 600 017 ... Respondents

W.P.No.10207 of 2022

- 1 The Director of School Education,
College Road, Chennai 600 006.
- 2 The Chief Educational Officer,
Thiruppur, Thiruppur District.
- 3 The District Educational Officer,
Palladam, Thiruppur District.
- 4 The Correspondent
C.S.I. Aided Elementary School,
Kathankanni, Thiruppur District
... Respondents

Prayer in W.P.No.4414 of 2020:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent in Na.Ka. No.7217 /A3 /2019 dated 31/01/2020 and quash the same and consequently directing the



respondents to approve the appointment of the petitioner in the post of Secondary Grade Teacher in 4th Respondent school from the date of appointment on 12/02/2018 with payment of salary and other service benefits.

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Prayer in W.P.No.6421 of 2022 :

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 25.06.2021 in O.Mu. No.4315 / A4 / 2021 on the file of the 2nd Respondent and quash the same directing the respondents 1 to 3 to accord approval from the date of appointment of the petitioner working as Middle Grade Assistant in the 4th respondent Holy Angels Anglo Indian Higher secondary school 107 Sir Theyagaraya Road T. Nagar Chennai 600 017 w.e.f 03.09.2018 with all servie and monetary benefits

Prayer in W.P.No.6424 of 2022

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 25.06.2021 in O.Mu. No. 4316 / A4 / 2021 on the file of the 2nd Respondent and quash the same directing the respondents to accord approval from the date of appointment of the petitioner working as Middle Grade assistant in the 4th respondent Holy Angels Anglo Indian Higher secondary school 107 Sir Theyagaraya Road T. Nagar Chennai 600 017 w.e.f 03.09.2018 with all service and monetary benefits.

Prayer in W.P.No.6430 of 2022

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 25.06.2021 in O.Mu. No. 4320/ A4 / 2021 on the file of the second Respondent and quash the same directing the respondents to accord approval from the date of appointment of the petitioner working as B.T. Assistant (Mathematics) in the 4th respondent Holy Angels Anglo Indian Higher secondary school 107 Sir Theyagaraya Road T. Nagar Chennai 600 017 w.e.f 03.09.2018 with all service and monetary benefits



Prayer in W.P.No.10207 of 2022 :

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 3rd respondent dated 22.02.2022 in Na.Ka.No. 3548/A2/ 2021 and quash the same and consequently direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher in the 4th respondent School with effect from date of initial appointment on 11.03.2009 and also give all consequential and attendant benefits including payment of arrears of admissible salary within a time to be stipulated by this court.

For Petitioners in

W.P.No.4414 of 2020 : Mr.S.Nedunchezhiyan

For Petitioners in

W.P.Nos.6421, 6424 & : Ms.A.Arul Mary
6430 of 2022

For Petitioners in

W.P.No.10207 of 2022 : Mr.P.Ganesan

For Respondents in

: Mr.S.Silambannan, A.A.G.
all W.Ps. Assisted by
Mr.Abishak Murthy, G.A.

COMMON ORDER

The batch of writ petitions are filed by the Secondary Grade Teacher/B.T.Assistant/Middle Grade Assistant, challenging the impugned order passed by the Educational authorities rejecting the request for approval of the appointment to the post of Secondary Grade Teacher/ B.T.Assistant/Middle Grade Assistant, made by the School Management. Therefore, all the writ petitions are heard together and common order is being passed.

2. According to the learned counsel appearing for the petitioners, the writ petitioners were appointed in the respective posts as Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant in the aided institution run by the private management and the management submitted proposal to the educational authorities for approval of the appointment made by the School management to the said posts. However, the educational authorities rejected the proposal by relying upon the G.O.Ms.No.165 dated 17.9.2019 issued by the School



Education department. Challenging the rejection order passed by the educational authorities, the petitioners have preferred the instant writ petitions before this Court.

3. The learned counsel appearing for the petitioners would submit that the Government has passed G.O.Ms.No.165 dated 17.9.2019 based on the interim order passed by the Division Bench of this Court at Madurai in W.A.(MD) No.76 of 2019 etc. cases (Batch), dated 9.4.2019 and thereafter, in the said batch of cases in W.A.(MD) No.76 of 2019 the Division Bench of this Court by judgment, dated 31.3.2021 issued comprehensive directions to the respondent department and also this Court observed that till the rules are framed, directions issued by the Division Bench of this Court in the aforesaid order shall be strictly followed by both the State Government and the Educational Institutions. The learned counsel appearing for the petitioners would further submit that G.O.Ms.No.165 has been passed by the Government on 17.9.2019 and subsequently, the subject matter of the G.O.Ms.No.165 challenged in the Writ Appeals in W.A.(MD) No.76 of 2019, etc. Batch cases and judgment also passed in the aforesaid Batch cases. However, the instant writ petitioners are not covered under the G.O.Ms.No.165 dated 17.9.2019 or the final order passed by the Division Bench of this Court in the aforesaid Batch cases for the reason that in the instant writ petitions, Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant are appointed prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. The learned counsel appearing for the petitioner also drew the attention of this Court to the Clause (t) of paragraph 95 of the aforesaid judgment wherein the Division Bench of this Court has held as under:

(t) This exercise shall be completed on or before 31st July, 2021, so that the identification of excess staff and follow up action as indicated in the compendium of schedule hereinabove can be undertaken and be followed strictly''.

4. Heard the rival submissions of the parties and perused the materials available on record.

5. The learned counsel appearing for the petitioners would submit that the G.O.Ms.No.165 dated 17.9.2019 as well as the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD) No.76 of 2019 are prospective in nature. In the present cases, the appointments were made prior to the Government order passed in G.O.Ms.No.165 issued by



School Education Department, dated 17.9.2019. Therefore, there is no legal impediment for approving the appointments made by the School Management to the aforesaid posts in the light of the existing Rules thereunder.

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6. The learned Additional Advocate General submitted that as against the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc., the State Government has preferred an appeal before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.15702 of 2021. It is further submitted that the Hon'ble Supreme Court stayed the judgment only in respect of Clause (i) of paragraph 95 of the said judgment. Further, it is also brought to the notice of this Court that the Division Bench in paragraph 6 of the said judgment, has observed that, 'no fresh appointment even in the sanctioned vacancy shall be made by any school which are managed by the Corporate Management.

7. The learned counsel appearing for the petitioners would submit that in the instant case, no appointment was made by the School Management pursuant to the judgment passed by the Division Bench of this Court. All the appointments were made prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and the proposals were also sent to the educational authorities prior to the issuance of said G.O.Ms.No.165 dated 17.9.2019. Thus, G.O.Ms.No.165 dated 17.9.2019 and the Division Bench judgment will not bind over the appointments made by the School Management in the instant writ petitions. Therefore, the learned counsel appearing for the petitioners seeks to quash the impugned orders and consequently, direct the educational authorities to accord approval to the appointment to the post of and Secondary Grade Teacher, B.T. Assistant and Middle Grade Assistant made by the School Management in the instant writ petitions.

8. According to the learned Additional Advocate General, the State Government has preferred an appeal before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.15702 of 2021 as against the judgment passed by the Division Bench of this Court in the Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc. and obtained stay insofar as Clause (i) of paragraph 95 of the said judgment. Except the aforesaid clause (i) of paragraph 95, there was no stay in respect of remaining portion of the judgment. It is agreed by the learned Additional Advocate General that the writ petitioners were appointed prior to the G.O.Ms.No.165 dated 17.9.2019 and therefore, it can be considered and an appropriate order may be passed.



9. On perusal of the judgment of the Division Bench of this Court in the aforesaid Batch of cases and also the G.O.Ms.No.165 issued by the School Education Department, dated 17.9.2019, both the judgment as well as G.O.Ms.No.165 are prospective in nature. The appointments made by the School Management in the instant writ petitions are prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and proposals for the said appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, there is no legal impediments for the respondents to accord approval to the appointment made by the School Management in the instant writ petitions.

10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc., G.O.Ms.No.165 issued by the School Education department, dated 17.9.2019 will not prohibit the educational authorities to approve the appointments made by the School Management in the instant writ petitions since the proposals for approval of appointments made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.9.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed.

11. Accordingly, the impugned orders passed by the respondent department in the aforesaid writ petitions are quashed and remitted to the Chief Educational Officers/District Educational Officers concerned, to consider and pass an order of approval of the appointments made by the School management, provided the said proposals satisfies all the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order. It is made clear that those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief granted hereinabove.



12. With the above directions, all the writ petitions stand allowed. No costs. Connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

- 1 The Secretary to Government,
State of Tamil Nadu
Education Department,
Fort St.George, Chennai 600 009.
- 2 The Commissioner of School Education,
The Directorate Of School Education,
DPI Campus, College Road,
Chennai 600 006.
- 3 The Chief Educational Officer,
Office of The Chief Educational Officer,
Presidency School Campus,
Egmore, Chennai 600 008.
- 4 The Chief Educational Officer,
Thiruppur,
Thiruppur District.
- 5 The District Educational Officer,
The Office of The District Educational Officer,
Ambedkar School,
Egmore, Chennai 600 008.
- 6 The District Educational Officer,
Cuddalore District.
- 7 The District Educational Officer,
Palladam, Thiruppur District.



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8 The Block Education Officer,
Cuddalore.

9 The Director of School Education,
College Road, Chennai-6.

+1cc to M/s.T.Dharani, Advocate Sr.30501

+1cc to the Government Pleader Sr.30704

+1cc to M/s.C.S.Associates, Advocate Sr.29956

W.P.No.4414 of 2020, 6421, 6424 & 6430 of 2022
and 10207 of 2022

W.M.P.Nos.6509, 6514, 6520, 9912 of 2022

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srg 16/05/2022