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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.5067 OF 2022

AND

W.M.P.NOS.5181 AND 5183 OF 2022

Fr.L.Edwin Charles

... Petitioner

.Vs.

1. The Commissioner of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
The office of the Chief Educational Officer,
Erode - 638 001.
3. The District Educational Officer,
The office of the District Educational Officer,
Gobichettipalayam,
Erode District - 638 452.
4. The Correspondent,
St.Francis Xavier's Higher Secondary School,
Periakodiveri - 638 503,
Erode District.

... Respondents

PRAYER:-

Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 26.10.2021 in O.Mu.No. 1133/A2/2021, on the file of the Second Respondent and the consequential proceedings dated __.11.2021 in O.Mu.No.5315/A2/2021 on the file of the Third Respondent and quash the same, directing the First to Third Respondents to accord approval to the appointment of the Petitioner Fr.L.Edwin Charles, in St.Francis Xavier's Higher Secondary School, Periakodiveri - 638503, Erode District, with effect from 10.09.2018, with all monetary and service benefits.



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For Petitioner : Dr.Father Xavier Arulraj
Senior Counsel
For M/s.Father Xavier Associates

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader
(Edn)

O R D E R

Heard Dr.Father Xavier Arulraj, Learned Senior Counsel appearing for the Petitioner and Mr. Stalin Abhimanyu, Learned Additional Government Pleader (Education), who takes notice for the First to Third Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. 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 B.T. Assistant (Social Science) against a vacancy in the school of the Fourth Respondent by order dated 10.09.2018 passed by the Fourth Respondent and claims that she has joined duty on 10.09.2018 and has been working as teacher in the said school from then onwards. The Fourth Respondent had forwarded the papers for approval of appointment of the Petitioner to the Third Respondent, who had returned it requiring certain details. Thereafter, the Fourth Respondent had re-submitted the proposal and the Second Respondent by Order in O.Moo.No.1133/A2/2021 dated 26.10.2021 had returned the same by pointing out that 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) had given guidelines to be followed for filling up the vacant posts and re-deployment of excess teachers and the approval for appointment and re-deployment for the academic year 2021-2022 would be considered taking into consideration the student strength on 31.08.2021, which has been reiterated by the Third Respondent.

3. It has been brought to notice that the contentious issues relating to granting of approval for appointment 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 sides that the instant Writ Petition is also one such matter covered by that authoritative pronouncement of the Division Bench of this Court, which now holds the field.

4. In such circumstances, the following order is passed:-

- (i) the Fourth Respondent shall re-submit the proposal for approval of appointment of the Petitioner as B.T. Assistant in its school rectifying the defects mentioned in the impugned order in O. Moo No. 1133/A2/2021 dated 26.10.2021 passed by the Second Respondent by 18.04.2022;
- (ii) the concerned authority shall consider 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) for approval of appointment of the Petitioner in the school of the Fourth Respondent for grant of aid for payment of her salary, if she is otherwise eligible for it and she had actually worked during the relevant period;
- (iii) if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed had not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner and the Fourth Respondent requiring the same to be furnished within a time frame of not less than 15 clear 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 immediately conducted affording full opportunity of personal hearing to the Petitioner and the Fourth 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 under written acknowledgment; and
- (v) if the Petitioner is entitled to the approval of appointment, it shall be ensured that the eligible amount of arrears of salary is paid within three months from the date of passing of that order, apart from the monthly salary for future months on the due dates.



In fine, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

skr

To

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+2ccs to M/s.Father Xavier Associates, Advocate, S.R.No.15374

W.P.NO.5067 OF 2022

AJS (CO)
PBS/08/04/2022