



W.P.(MD).No.1153 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.1153 of 2021

and

W.M.P.(MD).No.1009 of 2021

S.Angalaeswari

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Collectorate Campus,
Virudhunagar District.

3.The District Educational Officer,
O/o. the District Educational Officer,
Collectorate Complex,
Virudhunagar District.

4.The Secretary,
Mallanginaru Nadarkal
MSP Senthilkumara Nadar Higher Secondary School,
Mallanginaru,
Virudhunagar District.

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent vide A.Thi.Mu.No.1776/A2/2020 dated 08.06.2020 and quash the same and consequently direct the fourth respondent to forward the proposal in respect of petitioner's incentive increment for having acquired M.A.,(History) degree to the second and third respondents and direct the second and third respondents to approve the same within time frame.

For Petitioner	: Mr.D.Shanmugaraja Sethupathi
For R-1 to R-3	: Mr.S.Shaji Bino, Special Government Pleader.
For R-4	: Mr.C.Gangai Amaran

ORDER

The authority of the District Educational Officer to return the application seeking for grant of incentive increment or to reject the same on the ground that the concerned teacher had not obtained prior permission for acquiring higher educational qualification has already been dealt by this Court in various decisions by holding that such prior permission is not mandatory. In all these decisions, the concerned District Educational Officers were directed to sanction



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the incentive increment to the teachers for having acquired the higher educational qualifications.

2. In one such decision passed by the Hon'ble Division Bench of this Court in the case of ***the Director of Elementary Education, College Road, Chennai-600 006 and others Vs. G.Vijayalakshmi and others***, reported in ***(2015) 6 MLJ 315***, such a proposition was upheld in the following manner:

“39. Merely because, the petitioner has not obtained sanction of leave from the Director of Elementary Education, Chennai, it cannot be said that there is a violation of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act and the Rules framed thereunder and in particular, the Code of Conduct framed in Annexure-II, in terms of Section 21 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, read with Rule 16 of the Rules framed thereunder. Conditions imposed in the order, dated 30.05.2014, of the Director of Elementary Education, Chennai, can at best be made applicable, only to the extent, within the statutory provisions, to which, the recognised aided schools and the staff therein, are bound to follow. At the risk of repetition, Government orders issued are amendments to rule 24A of the Government Servant Conduct Rules, and not to Tamil Nadu Recognised Private Schools (Regulation) Act. 1973.”



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3. The aforesaid ratio has been subsequently followed in various batch of Writ Petitions by this Court by holding that the educational authorities do not have the authority to insist for a prior permission to acquire the higher educational qualification for the purpose of grant of incentive increment.

4. In the instant case, the petitioner's request for grant of incentive increment has been rejected/returned on the ground that she had not obtained the prior permission for acquiring the higher educational qualification. Such reasoning adopted by the respondents is opposed to the aforesaid decision of the Hon'ble Division Bench and therefore, cannot be sustained. In view of the settled proposition of law that such prior permission of the educational authorities for acquiring higher educational qualification is not required, it would be appropriate to grant a positive direction to the respondents to grant incentive increment to the petitioner.

5. Accordingly, the impugned order, dated 08.06.2020, on the file of the third respondent is quashed. Consequently, there shall be a direction to the District Educational Officer / the third respondent herein to pass appropriate



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orders, granting incentive increment to the petitioner for acquiring higher educational qualification of M.A. (History) degree with effect from May 2019, within a period of four (4) weeks from the date of receipt of a copy of this order.

6. This Writ Petition stands allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes/ No
Lm

To

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O/o. the Chief Educational Officer,
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- 3.The District Educational Officer,
O/o. the District Educational Officer,
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M.S.RAMESH, J.

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