



W.P.(MD)No.1349 of 2021

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

**DATED : 22.09.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.1349 of 2021**

**and**

**W.M.P(MD)Nos.1136, 1137 & 1139 of 2021**

R.C.Convent Middle School,  
through its Correspondent,  
Sister Mariya Chrisilda,  
D/o.John,  
Kosavapatti,  
Dindigul District.

... Petitioner

Vs

- 1.The Government of Tamil Nadu,  
Represented by its Secretary,  
Department of School Education,  
Fort St.George,  
Chennai – 600 009.
- 2.The Director of School Education,  
College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Dindigul District,  
Dindigul.



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4.The District Educational Officer,  
Dindigul District,  
Dindigul.

5.The Block Development Officer,  
Sanarpatti Education Block,  
Sanarpatti,  
Dindigul District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the fourth respondent vide his Proceeding in Na.Ka.No.1089/A4/2019 dated 12.08.2020 and quash the same as illegal and consequently direct the fourth Respondent to approve the appointment of Mrs.Leo Jesintha made by the Petitioner in the sanctioned Post of Graduate Teacher History (B.T.Assistant) from the date of appointment i.e. 21.08.2018 with all attendant and monetary benefits by considering by considering the Petitioner's proposal dated 09.01.2019 within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrence

For Respondents : Mr.N.Sathesh Kumar  
Additional Government Pleader

### **ORDER**

Heard the learned counsel on either side.

2. The writ petitioner is a minority Institution. One Mrs.Juliet Mary was working as Secondary Grade Teacher in the said School. She retired on



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reaching the age of superannuation on 31.05.2018. The School sought to treat the resulting vacancy as a vacancy arising in the post of B.T Assistant. Instead of sending a proposal for converting the resulting vacancy into a post of B.T Assistant, the School Management used the expression 'Upgrade'. The District Educational Officer, Dindigul by the impugned order dated 12.08.2020 rejected the said proposal on the ground that there is no provision in the Rules for upgrading the post of Secondary Grade Assistant into that of B.T Assistant. Challenging the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner drew my attention to the order dated 29.06.2022 in W.P(MD)No.10963 of 2020 (A.Franklin Raj Vs Chief Educational Officer, Tirunelveli & others). A learned Judge of this Court in the said decision had held that when a Secondary Grade Teacher retires on superannuation, the post of Secondary Grade Teacher “automatically” stands upgraded into that of a Graduate Teacher as per G.O(Ms)No.79, Secondary Education (U-1) Department dated 14.06.2022. I may not subscribe the use of expression 'upgradation'. But I definitely uphold the condition of the learned counsel appearing for the petitioner that the post of Secondary Grade Teacher will stand converted into that of the B.T Assistant.

4. In that view of the matter, the impugned order passed by the fourth respondent is quashed. The petitioner is permitted to submit a fresh proposal to



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the third respondent / Chief Educational Officer, on receipt of the proposal will pass an order permitting such conversion.

5. The other issue raised in this writ petition is the approval of the appointment of Mrs.Leo Jesintha as B.T Assistant with effect from 21.08.2018. The writ petitioner is a Minority Institution. Therefore, under Article 30 of the Constitution of India, they do have the right to make the appointment. The appointee is also having the requisite qualifications. It is true that I have directed the petitioner to submit a formal proposal to the third respondent / Chief Educational Officer for conversion of the post of Secondary Grade Teacher into that of B.T Assistant. I have also given a positive direction. The third respondent will positively accept the said proposal. The order to be passed by the third respondent will obviously relate back to the arising of the vacancy. The Department has not placed any material or advanced any contention for negating the proposal of the writ petitioner Institution. There has been a sanctioned vacancy in the post of Secondary Grade Teacher which can be converted automatically into that of B.T Assistant. Only in such a vacancy, Mrs.Leo Jesintha had been appointed. I direct the fourth respondent to approve the appointment of Mrs.Leo Jesintha. I have to necessarily issue a positive order in favour of writ petitioner. The writ petitioner after getting conversion order from the third respondent / Chief Educational Officer shall



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submit a fresh proposal to the fourth respondent. The fourth respondent shall approve the appointment of Mrs.Leo Jesintha as B.T Assistant (History) with effect from 21.08.2018 and release grant-in-aid without any delay thereafter.

6. This writ petition is allowed on these terms. Consequently, connected miscellaneous petitions are closed. No costs.

**22.09.2022**

Index : Yes / No  
Internet : Yes/ No  
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To

- 1.The Secretary,  
Government of Tamil Nadu,  
Department of School Education,  
Fort St.George,  
Chennai – 600 009.
- 2.The Director of School Education,  
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Chennai – 600 006.
- 3.The Chief Educational Officer,  
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