



WP(MD)Nos.12461 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.12461 of 2021
and
W.M.P.(MD)No.12298 of 2021

R.Janet Shanthi

... Petitioner

/vs./

1.The Chief Educational Officer,
Thevarpuram Road,
Thoothukudi – 628 002.

2.The District Educational Officer,
Thoothukudi – 628 002.

3.The Correspondent,
Caldwell Higher Secondary School,
Thoothukudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to approve the appointment of the petitioner in the sanctioned post of Laboratory Assistant in the 3rd respondent school w.e.f 08.07.2019 based on the proposal resubmitted by the 3rd respondent on 02.07.2021 and grant her all monetary and service benefits including salary.



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For Petitioner : Mr.VR.Shanmuganathan

For R1 & R2 : Mr.A.Kannan

Additional Government Pleader

ORDER

The third respondent's school is an aided Minority Institution, being administered by the Thoothukudi-Nazereth Diocese. The petitioner herein was appointed to the post of Laboratory Assistant in a vacancy, that arose due to the retirement of one Mr.Isaac. The appointment was made through the sanctioned post.

2.When the School has forwarded a proposal to the second respondent herein, seeking for approval of the petitioner's appointment, the proposal ultimately came to be rejected, through the order dated 20.04.2021 by observing that there are 36 surplus posts under the administration of Thoothukudi-Nazereth Diocese and therefore, the petitioner's approval cannot be considered.

3.The issue as to whether the School under the educational agency should be treated as one unit came up for consideration on several occasions and this



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Court had been consistently holding that the School shall be the unit and not the educational agency, in a batch of writ petitions, in the case of **Secretary to Government, School Educational Department and others vs. Iruthaya Amali** in **W.A.(MD)No.76 of 2019** etc., dated **31.03.2021**. Such a proposition was held in the following manner:

“94.2. Insofar as the first category of issue is concerned, we have already discussed those issues at length and have expressed our view, accordingly, the school shall be the unit and not the educational agency for fixing the staff strength, based on which, every year, staff strength based on the teacher-pupil ratio shall be fixed on or before a particular date by the Educational authorities followed by identification of excess teaching staff in every such school and once excess teaching staff are identified, those excess staff shall be redeployed to needy school under the same management or different managements, as the case may be.”

4.The aforesaid order is self explanatory. As such, the very basis, on which the approval was denied on the ground that there are surplus teachers in the schools run by the Educational Agency, under which the third respondent school is one, cannot be sustained, since the third respondent requires to be



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independently treated as one unit. On this ground, the order of the petitioner's non-approval cannot be sustained.

5. Accordingly, there shall be a direction to the second respondent herein to forthwith pass orders, approving the appointment of the petitioner in the sanctioned post of Laboratory Assistant in the third respondent School, with effect from 08.07.2019, based on the proposal submitted by the third respondent on 02.07.2021, within a period of eight (8) weeks from the date of receipt of this order. This Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

23.06.2022

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Director of School Education,
DPI Compound,
College Road, Chennai.
- 2.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 3.The District Educational Officer,
Valliyur Educational District,
Valliyur, Tirunelveli.



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M.S.RAMESH, J.

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Order made in
W.P.(MD)No.12461 of 2021

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