



W.P.(MD).No.12940 of 2021

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

**DATED : 30.06.2022**

**CORAM**

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

**W.P.(MD).No.12940 of 2021**

**and**

**W.M.P.(MD).Nos.10017 and 10021 of 2021**

L.Princeton Fernando

... Petitioner

**Vs.**

- 1.The State of Tamil Nadu,  
Represented by its Secretary,  
Department of Higher Education,  
Fort St.George,  
Chennai-600 009.
- 2.The Director of School Education,  
College Road,  
Chennai-600 006.
- 3.The Chief Educational Officer,  
Tirunelveli,  
Tirunelveli District.
- 4.The District Educational Officer,  
Tirunelveli,  
Tirunelveli District.
- 5.The Correspondent,  
St.Xavier's Higher Secondary School,  
Palayamkottai-627 002,  
Tirunelveli District.

...Respondents



**W.P.(MD).No.12940 of 2021**

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fourth respondent District Educational Officer in Oo.Mu.No.411/Aa2/2020, dated 21.06.2021 denying approval of the petitioner's appointment as BT Assistant (English) and quash the same as illegal, and further direct the third respondent CEO to approve forthwith of the petitioner's appointment as BT Assistant (English) in fifth respondent school with effect from 07.06.2017, with all attendant benefits including arrears of salary.

|                |                                                   |
|----------------|---------------------------------------------------|
| For Petitioner | : Mr.Aayiram.K.Selvakumar                         |
| For R-1 to R-4 | : Mr.S.Shaji Bino,<br>Special Government Pleader. |
| For R-5        | : No appearance                                   |

### **ORDER**

The fifth respondent School is a minority aided educational institution. When a vacancy arose owing to the promotion of a BT Assistant (Social Science), the petitioner herein was appointed to the post of BT Assistant (English) with effect from 07.06.2017. The proposal of the fifth respondent School, dated 28.01.2021, seeking for approval of the petitioner's appointment as BT Assistant (English) came to be rejected by the fourth respondent herein through the impugned order, dated 21.06.2021, predominantly, on the ground



W.P.(MD).No.12940 of 2021

that since the Government letter, dated 04.12.2019, stipulates that unless the surplus teachers in Government run middle schools and high schools are deployed to other needy schools, no recruitment or appointment can be done.

2. The letter of the Government, dated 04.12.2019, referred to in the impugned order was the outcome of the decision of this Court passed in a batch of Writ Petitions in the case of *Secretary to Government and others Vs. Iruthaya Amali and another* reported in *2021 SCC OnLine Mad 1285*. In the said decision, what was ordered is that the excess teaching staffs are required to be identified in all category schools and till such time, the "Government" shall not appoint Teachers under any category. The order does not speak about appointments that have already been made and which are awaiting approval of the authorities. This decision has been ratified in several judgments passed by this Court in identical circumstances. As such, placing reliance on the Government Letter, dated 04.12.2019 and rejecting the petitioner's claim on the ground that until surplus teachers are filled, no approval can be granted, is misplaced and liable to be set aside.



**W.P.(MD).No.12940 of 2021**

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3. Accordingly, the impugned order, dated 21.06.2021, on the file of the fourth respondent is quashed. Consequently, the fifth respondent is called upon to re-submit the earlier proposal, dated 28.01.2021, to the fourth respondent herein and on the receipt of the said proposal, the fourth respondent shall forthwith pass orders, approving the appointment of the petitioner to the post of B.T.Assistant (English) in the fifth respondent School, with effect from 07.06.2017. Such orders shall be passed within a period of eight (8) weeks from the date of receipt of a copy of this order.

4. With the above direction, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**30.06.2022**

Index : Yes / No  
Internet : Yes/ No  
Lm



W.P.(MD).No.12940 of 2021

To

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Department of Higher Education,  
Fort St.George, Chennai-600 009.
2. The Director of School Education,  
College Road,  
Chennai-600 006.
3. The Chief Educational Officer,  
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Tirunelveli District.
4. The District Educational Officer,  
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**W.P.(MD).No.12940 of 2021**

**M.S.RAMESH, J.**

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**W.P.(MD).No.12940 of 2021**

**30.06.2022**