



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2022**

CORAM:

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

W.P. (MD) No. 13979 of 2021

and

W.M.P (MD) .Nos. 10930 and 10932 of 2021

WEB COPY

Francis Selvakumar

... Petitioner

/vs./

1.The State of Tamil Nadu
Rep.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,
Valliyoor, Tirunelveli District.

5.The Correspondent,
Samariah St.John's Higher Secondary School,
Kulasekaranvilai,
Tisaiyanvilai,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of 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.1222/Aa3/2020 dated 23.04.2021 denying approval to the petitioner's appointment as PG Assistant (Economics) and quash the same as illegal and further direct the third respondent/Chief Educational Officer to approve forthwith of his appointment as PG Assistant (Economics) in the fifth respondent school with effect from 03.06.2019, with all attendant benefits including arrears of salary.

For Petitioner : M/s.Aayiram K.Selvakumar

For Respondents : Mr.A.Kannan
Additional Government Pleader
for R1 to R4

**ORDER**

The petitioner herein was appointed in the sanctioned post of P.G.Assistant (Economics). The fifth respondent School which is a Minority Aided Institution, had sent a proposal on 02.07.2019 seeking for approval of the petitioner's appointment. The fourth respondent herein had passed the impugned order on 23.04.2021 by quoting an interim order passed in a batch of writ appeals in W.A (MD).No.76 of 2019 etc., stating that since there was a ban in making fresh appointments until the surplus teachers are re-deployed, the approval is not feasible. Incidentally, the interim order that was passed in the batch of writ appeals was closed, after the writ appeals were finally disposed of on 31.03.2021. Apparently, the fourth respondent herein had not taken into account of the fact that the interim order did not exist on that date.

2. In the counter affidavit, the respondents have cited the final orders as an impediment for granting approval. Such a statement cannot be sustained for two reasons. Firstly, the counter affidavit cannot improve the reasonings assigned by the fourth respondent in the impugned order. Secondly, even in the final orders passed by the Hon'ble Division Bench of this Court, the ban was only for making fresh appointments till the excess teachers were re-deployed. The petitioner's case is not one of fresh appointment, but rather for approval of the appointment already made on 03.06.2019. Thus, the impugned order rejecting the proposal of the fifth respondent School cannot be sustained.

3. In the result, the impugned order passed in Oo.Mu.No.1222/Aa3/2020 dated 23.04.2021 by the fourth respondent is quashed and consequently, there shall be a direction to the fourth respondent herein to pass fresh orders on the proposal dated 02.07.2019 submitted by the fifth respondent School, within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

ssb

To:

1.The Secretary to Government,
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,
Valliyoor, Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-28231[F] dated 27/06/2022)

W.P. (MD) No.13979 of 2021
23.06.2022

MGJ(06.07.2022) 3P 6C