



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2022**

CORAM:

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

W.P. (MD) No. 15101 of 2021

W.M.P (MD). No. 12030 of 2021

WEB COPY

Gopalan Elementary School,
Rep.by its Secretary,
Arumugapatti,
Ambasamudram Taluk,
Tirunelveli District.

... Petitioner

/vs./

1.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District,
Tirunelveli.

2.The Block Educational Officer,
Ambasamudram,
Tirunelveli District.

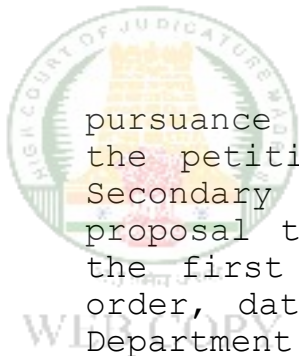
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in regard to the impugned order of return made by the first respondent in Na.Ka.No.3986/Aa2/2019 dated 19.11.2019 and quash the same and consequently direct the first respondent to grant approval of appointment of Mrs.R.Sobhia, in the sanctioned post of Secondary Grade Teacher in the petitioner School from the date of her appointment (i.e.,) 01.08.2019 with all consequential and other attendant benefits including arrears of salary in the light of the orders passed in W.P(MD).Nos.1195, 1959 and 3189 of 2020 dated 22.01.2020, 29.01.2020 and 26.02.2020 respectively based on the petitioner's representation dated 25.11.2020 within the time limit that may be stipulated by this Court.

For Petitioner	:	Mr.K.Sankar
For Respondents	:	Mr.V.Nirmal Kumar Government Advocate

ORDER

When the petitioner School intended to fill up the post of Secondary Grade Teacher, the first respondent herein had granted prior permission for such appointment by directing them to issue a notification in the newspapers, calling for women teachers. In



pursuance of the prior permission granted by the first respondent, the petitioner School had appointed Mrs.R.Sobhia to the post of Secondary Grade Teacher. When the School Committee had sent a proposal to the first respondent for approval of the appointment, the first respondent had rejected the same through the impugned order, dated 19.11.2019 by quoting G.O.Ms.No.165, School Education Department dated 17.09.2019 and observing that the fresh appointments cannot be made unless surplus teachers are re-deployed.

2. When the first respondent himself has granted prior permission for filling up the post, he cannot thereafter refuse to grant approval for such appointment. In the case of **Melapallivasal Girls Higher Secondary School vs. Government of Tamil Nadu rep.by its Secretary to the Government** in **W.P[MD].No.1195 of 2020** dated **22.01.2020**, this Court, in paragraph No.7, has held as follows:-

7.The issue involved in this writ petition is also covered by the order of this Court in W.P(MD)No.21065 of 2019, dated 08.11.2019 (Jaihind Primary School, M.Karisalkulam, Sivagangai District rep. by its Secretary Mr.P.S.Senthil v. The Chief Educational Officer, Sivagangai District and Others), wherein it has been held as follows:

"6.From the materials on record, it is seen that the vacancy for the post of Secondary Grade Teacher has arisen in the petitioner School on 04.06.2018 itself. At request of the petitioner School, the respondents granted prior permission to fill up the said post. After obtaining permission from the respondents, the petitioner School appointed one Vijayakumar as Secondary Grade Teacher and forwarded the proposal for approval of appointment of the said Vijayakumar as Secondary Grade Teacher to the third respondent. The third respondent forwarded the said proposal to the second respondent stating that as per direction of the Division Bench of this Court in W.A(MD).No.76 of 2019, no appointment shall be made in the aided private School till surplus teachers are deployed. The second respondent returned the proposal forwarded by the third respondent on the ground that the proposal of the petitioner was not recommended by the third respondent in accordance with rules. The recommendation sent by the third respondent referring the order of this Court, dated 09.04.2019, in W.A(MD).No.76 of 2019, is erroneous. In the said order, this Court held that till the surplus teacher in the School under the same management are deployed, no fresh appointment can be made. Based on the interim order of the Division



Bench of this Court, dated 09.04.2019, Government issued G.O.(Ms).No.165, School Education Department, dated 17.09.2019. A Division Bench of this Court by order dated 20.09.2019 in W.A(MD). No.76 of 2019, suspended G.O.(MD).No.165.

7. In view of the above materials, recommendation sent by the third respondent referring to interim order, dated 09.04.2019 is erroneous. The respondents having granted prior permission to fill up the vacancy of the Secondary Grade Teacher in the petitioner School, is not entitled to now not to approve the appointment made in the sanctioned post, based on the prior permission. In view of the same, the impugned order of the third respondent dated 17.09.2019 and return of the second respondent, dated 27.08.2019, are set aside. The petitioner School is directed to resubmit the proposal within a period of two weeks from the date of receipt of a copy of this order. On receipt of such proposal, the respondents 2 and 3 are directed to approve the appointment of Vijayakumar as Secondary grade Teacher in the Petitioner School within a period of eight weeks thereafter, if he is otherwise eligible".

3. The aforesaid extract is self-explanatory. As such, when the first respondent himself has granted prior permission for the purpose of filling up the vacancy that arose in the sanctioned post, they are bound to grant approval for such appointment made in view of the aforesaid decisions of this Court. Accordingly, the impugned order dated 19.11.2019 passed in Na.Ka.No.3986/Aa2/2019 is quashed. Consequently, there shall be a direction to the first respondent herein to pass fresh orders approving the appointment of Mrs.R.Sobhia as Secondary Grade Teacher in the sanctioned vacancy, within a period of eight weeks from the date of receipt of a copy of this order.

4. In the result, the Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

Sd/-

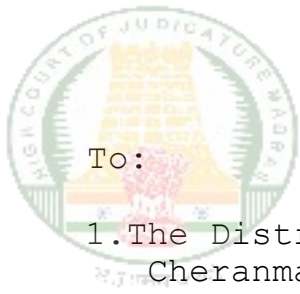
Assistant Registrar (As)

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/07/2022

Sub Assistant Registrar(CS)

ssb



To:

1.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District,
Tirunelveli.

2.The Block Educational Officer,
Ambasamudram,
Tirunelveli District.

+1 CC to M/s.K. SANKAR, Advocate (SR-27893[F] dated 24/06/2022)

+1 CC to M/s.SPL.GP (SR-27959[F] dated 24/06/2022)

W.P.(MD)No.15101 of 2021

23.06.2022

MGJ(06.07.2022) 4P 5C