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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.2206 of 2023
and W.M.P No.2286 of 2023

The Headmistress and Correspondent
St.Anne's Girls Higher Secondary School
Cuddalore – 607 001.

Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. 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,
Chief Educational Office,
Cuddalore – 607 001.

4.The District Educational Officer,
District Education Office,
Cuddalore – 607 001.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Certiorarified Mandamus, calling for the records
relating to the impugned order passed by the 4th respondent District



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Educational Officer in Na. Ka. No. 00790 / Aa2 / 2022 dated 27.09.2022 (as signed), quash the same and further direct the 3rd and 4th respondents to approve forthwith the appointment of Mrs.R.Periyanayagi Mary as BT Assistant (Maths) in the petitioner-school with effect from the date of her appointment viz. 04.07.2019 by upgrading the existing post of Secondary Grade Teacher and release salary and all attendant benefits with effect from the said date.

For Petitioner : Mr.Godson Swaminath

For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

Considering the limited issue involved in this writ petition and also the fact that it is covered by the earlier judgment of the Division Bench in W.A.(MD)No.76 etc., of 2019, dated 31.03.2021, the main writ petition itself is taken up for final hearing.

2.The case of the petitioner is that there were 18 sanctioned posts of Secondary Grade Teachers and one post fell vacant due to the retirement of the incumbent on 31.05.2019. The Management decided to appoint B.T.

Assistant (Maths) and accordingly, one R.Periyanayagi Mary was appointed



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in the sanctioned post w.e.f. 04.07.2019. The concerned teacher also joined service on 04.07.2019 and she is continuing till date.

3.The petitioner School submitted the necessary proposal to the 4th respondent to upgrade the existing post of Secondary Grade Teacher into B.T. Assistant (Maths) for the purpose of approval of appointment. The said proposal was returned by the 4th respondent stating that as per G.O.Ms.No.165, dated 17.09.2019, only after the fixation of the staff is done based on the strength of the students as on 01.08.2019, the upgradation of the post and approval of the appointment will be considered.

4.The petitioner School thereafter resubmitted the proposal for upgradation. Once again, the same was returned by the 3rd respondent through proceedings dated 28.11.2019. Ultimately, the 4th respondent through proceedings dated 06.02.2020 recommended for the upgradation of the Secondary Grade Teacher Posts into B.T. Assistant Posts. The 3rd respondent through separate proceedings passed orders upgrading three Secondary Grade Teachers Posts out of five, as B.T. Assistant Teachers Posts as requested by the petitioner School.



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5.Subsequent to the above development, the petitioner School made a representation on 31.01.2022, requesting the 4th respondent to approve the appointment of the B.T. Assistant. The 4th respondent through proceedings dated 27.09.2022 returned the proposal by stating that an interim order has been passed in a pending Writ Appeal and hence, till the deployment of the excess staff working, no approval will be granted for the new appointments.

6.The petitioner has approached this Court questioning the impugned proceedings of the 4th respondent dated 27.09.2022, mainly on the ground that the Writ Appeal that was referred by the 4th respondent has already been disposed of by the Division Bench of this Court while considering a batch of cases through order dated 31.03.2021 and it was held that G.O.Ms.No.165, dated 17.09.2019, is in operative. In view of the same, the refusal of the 4th respondent to grant approval for the appointment of the B.T. Assistant is unsustainable and the same requires the interference of this Court.

7.Heard Mr.Godson Swaminath, learned counsel appearing on behalf of the petitioner and Mr.D.Ravichander, learned Special Government Pleader appearing on behalf of the respondents.



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8.It is not necessary for this Court to go into the merits of the case, since the entire issue is focused on the applicability of G.O.Ms.No.165, dated 17.09.2019. The Division Bench of this Court in W.A.(MD) Nos.76 etc., of 2019 has considered the issue in detail and final orders have been passed on 31.03.2021. A series of directions have been issued by the Division Bench. The Division Bench has declared that the G.O.Ms.No.165, dated 17.09.2019 is declared to be inoperative. In view of the same, the very basis on which the impugned order has been passed by the 4th respondent on 27.09.2022, becomes unsustainable.

9.In the light of the above discussion, the impugned proceedings of the 4th respondent dated 27.09.2022, is hereby quashed. There shall be a direction to the 4th respondent to consider the request made by the petitioner School for approving the appointment of the B.T. Assistant. If any Special Leave Petition is pending in this regard, such approval can be granted subject to the result of the Special Leave Petitions before the Apex Court. This exercise shall be completed by the 4th respondent, within a period of four weeks from the date of receipt of copy of this order.



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N. ANAND VENKATESH, J.

ssr

10. Accordingly, this writ petition is allowed with the above directions.

No Costs. Consequently, connected miscellaneous petition is closed.

27.01.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

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Rep. by its Secretary,
Department of School Education,
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and W.M.P No.2286 of 2023
(2/2)**