



WEB COPY



Writ Petition No.3153 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.3153 of 2023
and
W.M.P.Nos.3210 and 3212 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 Educational Office,
Cuddalore – 607 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fourth respondent District Educational Officer in Na.ka.No.05760/Aa2/2022



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dated 27.09.2022 (as signed), quash the same, and further direct the third and fourth respondents to approve forthwith the appointment of Sr.A.Arockia Ezhilarasi as PG Assistant (Physics) on the petitioner-school with effect from the date of her appointment viz., 01.07.2022 and release salary and all attendant benefits with effect from the said date.

For Petitioner : Ms.H.Mary Sowmi Rexi

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 out of three posts of Post Graduate Teacher in Physics, one post fell vacant due to the retirement of the incumbent on 30.06.2022. The Management decided to appoint PG Assistant (Physics) and accordingly, one Sr.A.Arockia Ezhilarasi was appointed in the sanctioned post with effect from 01.07.2022. The concerned teacher also joined service and she is continuing till date.

3. The petitioner School submitted necessary proposal to the



fourth respondent for the purpose of approval of appointment. The said proposal was returned by the fourth respondent through proceedings dated 27.09.2022 stating that an interim order has been passed in a pending Writ Appeal and as per G.O.Ms.No.165, dated 17.09.2019, till the deployment of the excess staff working, no approval will be granted for new appointments.

4. The petitioner has approached this Court questioning the impugned proceedings of the fourth respondent dated 27.09.2022, mainly on the ground that the Writ Appeal that was referred by the fourth 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 inoperative. In view of the same, the refusal of the fourth respondent to grant approval for appointment of the PG Assistant is unsustainable and the same requires the interference of this Court.

5. Heard Ms.H.Mary Sowmi Rexi, learned counsel appearing on behalf of the petitioner and Mr.D.Ravichander, learned Special Government Pleader, appearing on behalf of the respondents.

6. It is not necessary for this Court to go into the merits of the



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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 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 fourth respondent on 27.09.2022, becomes unsustainable.

7. In the light of the above discussion, the impugned proceedings of the fourth respondent dated 27.09.2022, is hereby quashed. There shall be a direction to the fourth respondent to consider the request made by the petitioner School for approving the appointment of PG 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 fourth respondent, within a period of four (4) weeks from the date of receipt of a copy of this order.

Accordingly, this writ petition is allowed with the above



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directions. No Costs. Consequently, connected miscellaneous petition is closed.

07.02.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
rap/gm

To

1. The 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 Educational Office,
Cuddalore – 607 001.



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N. ANAND VENKATESH, J

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