



W.P. No. 5508 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 5508 of 2023

and

W.M.P. No. 5522 of 2023

The Secretary
Arcot Lutheran Church
9, ALC Campus
Cuddalore – 607001.

... Petitioner

-VS-

1. State of Tamil Nadu
Secretary to School Educational Department
Secretariat, Fort St. George
Chennai – 600014.
2. The Commissioner
School Education Department
Directorate of School Education
College Road, Chennai.
3. Chief Educational Officer
Tiruvannamalai.
4. Chief Educational Officer
Cuddalore.
5. District Educational Officer
Chengam.
6. District Elementary Education Officer
Virudhachalam.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for records



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pertaining to order dated 20.09.2022 bearing Na.Ka.No. 715/A2/2022 issued by the Fifth Respondent and consequentially direct the Fifth Respondent to process the Application dated 08.02.2019 de hors G.O.(Ms) No. 165 dated 17.09.2019 and any other circulars or instructions based thereupon and quash the same.

For Petitioner : Ms. Aishwarya S Nathan
For Respondents : Mrs. R.Anitha (R1 to R6)
Special Government Pleader

ORDER

Heard Ms. Aishwarya S Nathan, Learned Counsel for the Petitioner and Mrs. R.Anitha, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a church running schools viz., Danish Mission School, which is a Christian Minority institution, receiving grant-in-aid from the Government of Tamil Nadu for payment of salaries to its teachers. One J.Jothimani claims to have been appointed as Intermediate Teacher on 03.01.2019 in the school of the Petitioner and despite several proposals sent by the Petitioner for its approval, the same had not been granted. The Fifth



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Respondent by Order in Na. Ka. No. 715/A2/2022 dated 20.09.2022 had rejected the proposal sent by the Petitioner stating that the new appointment could not be made in the Government Aided Schools and the same could be made only through deployment. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the same.

3. It has been brought to notice that the contentious issues relating to granting of approval for appointment in aided private schools falling under the management of educational institutions establishing more than one school has been extensively delved into by the Division Bench of this Court in ***Secretary to Government -vs- Iruthaya Amali*** (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch) and has disposed those cases remitting the matter for fresh consideration before the concerned authority in terms of the directions issued therein. Though Special Leave to Appeal (C) No 15702 of 2021 has been preferred against the said order before the Hon'ble Supreme Court of India, it is accepted by Learned Counsel for both sides that the directions in clause (i) of ***Secretary to Government -vs- Iruthaya Amali*** (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch) alone has been stayed in the order dated 14.03.2022 till the next hearing on 20.04.2022. This would obviously mean that it is incumbent upon the Respondents to comply with all



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the directions except clause (i) in the aforesaid authoritative pronouncement of the Division Bench of the Court, which now holds the field.

4. In such circumstances, the Writ Petition is disposed on the following terms:-

- (i) the impugned Order in Na. Ka. No. 715/A2/2022 dated 20.09.2022 passed by the Fifth Respondent is set aside and the matter is remitted for consideration of the matter afresh in accordance with the directions [(except clause (i)] issued by the Division Bench of this Court in ***Secretary to Government -vs- Iruthaya Amali*** (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch);
- (ii) the concerned authority shall immediately consider the claim of the Petitioner for approval of that person appointed in its school for grant of aid for payment of the salary, if she is otherwise eligible for it and had actually worked during the relevant period;
- (iii) if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed had not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 clear working days;



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(iv) in the event of the concerned authority not being satisfied with the compliance of the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard and the concerned authority shall pass reasoned orders dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken to the concerned parties under written acknowledgment;

(v) if the Petitioner is entitled to the approval of appointment, it shall be ensured that the eligible amount of arrears of salary is paid within one month from the date of passing of that order, apart from the monthly salary for future months on the due dates;

(vi) the concerned authority shall file a report of compliance in that regard by 30.06.2023 before the Registrar (Judicial) of this Court;

(vii) consequently, the connected Miscellaneous Petition is closed; and

(viii) there shall be no order as to costs.

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Index: Yes/No

Note: Issue order copy by 30.06.2023.



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To

WEB COPY

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Secretariat, Fort St. George
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Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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