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W.P. No. 6832 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

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

W.P. No. 6832 of 2023

and

W.M.P. Nos. 6936, 6938 and 6941 of 2023

J.Stefi

... Petitioner

-VS-

1. The Government of Tamil Nadu
Represented by its Principal Secretary
Department of School Education
Fort St. George, Chennai – 600 009.
 2. The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
 3. The Chief Educational Officer,
Office of the Chief Educational Officer,
Chengalpattu,
Chengalpattu District.
 4. The District Educational Officer,
The office of the District Educational Officer,
St. Thomas Mount, Chrompet,
Chennai.
 5. The Correspondent,
Christ King Girls Higher Secondary School,
Velachery Main Road, East Tambaram,
Chennai – 600 059.
- Respondents

...



W.P. No. 6832 of 2023

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated .08.2022 in Na.Ka. No. 1848/A2/2022, on the file of the Third Respondent and the consequential impugned order dated 28.09.2022 in Na.Ka.No.2472/A2/2022 on the file of the Fourth Respondent and quash the same, directing the First to Fourth Respondents, to accord approval to the appointment of the Petitioner Mrs.J.Stefi, as B.T.Assistant (English), in Christ King Girls' Higher Secondary School, East Tambaram, Chennai – 600 059, w.e.f. 03.06.2019, with all monetary and service benefits.

For Petitioner : Dr. Father Xavier Arulraj
Senior Counsel
For M/s. Father Xavier Associates

For Respondents : Mr. B.Vijay
Additional Government Pleader
(for R1 to R4)

ORDER

Heard Dr. Father Xavier Arulraj, Learned Senior Counsel appearing for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader appearing for the First to Fourth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Fifth Respondent is a private school receiving grant-in-aid from the Government of Tamil Nadu for payment of salaries to its teachers. The Petitioner was appointed as B.T. Assistant (English) against a vacancy in the school of the Fifth Respondent by order dated 03.06.2019 passed by the Fifth Respondent and claims that she has joined duty on 03.06.2019 and has been working as teacher in the said school from then onwards. The Fifth Respondent had forwarded the papers for approval of appointment of the Petitioner to the Third Respondent through the Fourth Respondent. In furtherance thereto, the Fourth Respondent by Order in Na. Ka. No. 0461/A2/2020 dated 03.02.2020 rejected the proposal for approval of appointment by informing the Fifth Respondent to follow the advices given in the interim order passed by this Court in ***Secretary to Government -vs- Iruthaya Amali*** (Order dated 09.04.2019 in W.A. (MD) No. 76 of 2019 etc., batch) and G.O. Ms. No. 165, School Education Department dated 17.09.2019 for appointments in schools receiving grant-in-aid from the Government. In that backdrop, the Petitioner had filed the Writ Petition in W.P. No. 3838 of 2022 before this Court, which was disposed by order dated 25.02.2022 on the following terms:-

“(i) *the impugned Order in Na. Ka. No. 0461/A2/2020 dated*



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03.02.2020 passed by the Fourth Respondent is set aside and the Fifth Respondent shall re-submit the papers by 18.04.2022 satisfying all requirements prescribed for grant of approval of appointment to the relevant post;

- (ii) *the concerned authority shall consider the matter afresh in accordance with the directions 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) for approval of appointment of the Petitioner in the school of the Fifth Respondent for grant of aid for payment of her salary, if she is otherwise eligible for it and she 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 and the Fifth Respondent 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 immediately conducted affording full opportunity of personal hearing to the Petitioner and the Fifth Respondent 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 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 three months from the date of passing of that order, apart from the monthly salary for future months on the due dates;”*

In furtherance to the aforesaid order, the Third Respondent by Proceedings in Na. Ka. No. 1848/A2/2022 dated Nil.08.2022 has rejected the proposal for approval of appointment of the Petitioner in the school of the Fifth Respondent stating as if the decision of the Division Bench of the Court in ***Secretary to Government -vs- Iruthaya Amali*** (Order dated 09.04.2019 in W.A. (MD) No.



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76 of 2019 etc., batch) has been stayed by order dated 14.03.2022 in Special Leave to Appeal (C) No. 15702 of 2021 passed by the Hon'ble Supreme Court of India, and the Fourth Respondent by consequential Proceedings in Na. Ka. No. 2472/A2/2022 dated 28.09.2022 returned the proposal. The Writ Petition has been filed challenging the said orders.

3. It is evident on a perusal of the order dated 14.03.2022 in Special Leave to Appeal (C) No. 15702 of 2021 passed by the Hon'ble Supreme Court of India that it is only the direction contained in clause (i), which has been stayed till the next hearing on 20.04.2022, meaning thereby that the Respondents have to comply with all other directions given in the aforesaid authoritative pronouncement of the Division Bench of the Court, which now holds the filed. It has not been explained by the Respondents as to how clause (i) in the decision of the Division Bench of the Court in ***Secretary to Government -vs- Iruthaya Amali*** (Order dated 09.04.2019 in W.A. (MD) No. 76 of 2019 etc., batch) has any bearing to the matter in controversy in this case.

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

(i) the impugned Order in Na. Ka. No. 1848/A2/2022 dated Nil.08.2022



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passed by the Third Respondent and Order in Na. Ka. No. 2472/A2/2022

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dated 28.09.2022 passed by the Fourth Respondent are set aside and the Fifth Respondent shall re-submit the papers by 15.07.2022 satisfying all requirements prescribed for grant of approval of appointment to the relevant post;

- (ii) the concerned authority shall consider 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) for approval of appointment of the Petitioner in the school of the Fifth Respondent for grant of aid for payment of her salary, if she is otherwise eligible for it and she 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 and the Fifth Respondent requiring the same to be furnished within a time frame of not less than 15 clear working days;
- (iv) in the event of the concerned authority not being satisfied with the compliance of the requirements even thereafter, an enquiry shall be immediately conducted affording full opportunity of personal hearing to



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the Petitioner and the Fifth Respondent 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 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 three months from the date of passing of that order, apart from the monthly salary for future months on the due dates;
- (vi) consequently, the connected Miscellaneous Petitions are closed; and
- (vii) there shall be no order as to costs.

14.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 27.06.2023.

To

1. The Principal Secretary
Department of School Education
Fort St. George, Chennai – 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
3. The Chief Educational Officer,
Office of the Chief Educational Officer,
Chengalpattu,



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Chengalpattu District.

4. The District Educational Officer,
The office of the District Educational Officer,
St. Thomas Mount, Chrompet,
Chennai.



W.P. No. 6832 of 2023

5. The Correspondent,
Christ King Girls Higher Secondary School,
Velachery Main Road, East Tambaram,
Chennai – 600 059.

Copy to

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



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P.D. AUDIKESAVALU, J.

Maya

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