



WEB COPY



W.P. No. 7674 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. 7674 of 2023

and

W.M.P. No. 7850 of 2023

Sri Mahaveer Jain Higher Secondary School

No.520/770, T.H.Road

Thiruvotriyur, Chennai – 600 019.

Rep. by its Secretary S.Nemichand Jain

... Petitioner

-VS-

1. The Commissioner of School Education

Directorate of School Education

College Road, Chennai – 6.

2. The Chief Educational Officer

Thiruvallur – 602 001.

3. The District Educational Officer

Ambattur, Chennai – 600 053.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the Third Respondent in his proceedings Na.Ka. No. 573/A2/2019 dated 10.01.2020 and quash the same and consequently approve the appointment of Tmt.Girija in the post of B.T.Assistant (Tamili) from the date of initial appointment (09.11.2018) by considering the Petitioner appeal to the Second Respondent dated 03.03.2020, 27.09.2021, 24.10.2022 respectively.



W.P. No. 7674 of 2023

For Petitioner : Mr. R.S.Anandan
For Respondents : Mrs. R.Anitha
Special Government Pleader

ORDER

Heard Mr. R.S.Anandan, Learned Counsel for the Petitioner and Mrs. R.Anitha, Learned Special Government Pleader, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

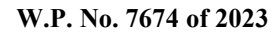
2. The Petitioner is a linguistic minority school receiving grant-in-aid from the Government of Tamil Nadu for payment of salaries to its teachers. One M.Girija claims to have been appointed as B.T. Assistant (Tamil) on 08.11.2018 in the school of the Petitioner and despite several proposals sent by the Petitioner for its approval, the same had not been granted. The Third Respondent by Order in Na. Ka. No. 573/A2/2019 dated 10.01.2020 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.



W.P. No. 7674 of 2023

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 the 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 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:-



- (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;
- (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



W.P. No. 7674 of 2023

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 31.08.2023 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.

14.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 28.06.2023.

To

1. The Commissioner of School Education
Directorate of School Education
College Road, Chennai – 6.
2. The Chief Educational Officer
Thiruvallur – 602 001.



W.P. No. 7674 of 2023

3. The District Educational Officer
Ambattur, Chennai – 600 053.

Copy to

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



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W.P. No. 7674 of 2023

P.D. AUDIKESAVALU, J.

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W.P. No. 7674 of 2023

14.03.2023