



*Rev.Appl.112 of 2016
in W.A.No.1073 of 2011*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**Rev.Appl.No.112 of 2016 in W.A.No.1073 of 2011
and C.M.P.No.16897 of 2016**

- 1 The State Of Tamil Nadu Rep
By Its Secretary Education Department Fort St.
George Chennai- 600 009
- 2 The Director Of School
Education College Road Chennai 600 009
- 3 The Director Of Elementary
Education College Road Chennai 600 006
- 4 The District Elementary
Educational Officer Nagapattinam District
- 5 The Additional Assistant
Elementary Education Officer
Sembanarkoil- 609307.

... Petitioners

-Vs-

R.Rengasamy

... Respondent

Prayer : Review Application under Order XLVI, rule I of Code of Civil Procedure to set aside the order made in W.A.No.1073 of 2011 dated 06.11.2012.

For Petitioners	:	Mr.K.V.Sajeev Kumar Special Government Pleader
For Respondents	:	Mr.L.Chandrakumar



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ORDER

(Order of the Court was made by **R.SURESH KUMAR, J.**)

This Review Application has been filed seeking review of the order passed by the Division Bench dated 06.11.2012 made in W.A.No.1073 of 2011.

2. Before the Division Bench, the State was the appellant. Aggrieved over the order passed by the learned Single Judge in W.P.No.348 of 2008 dated 18.02.2010 the said writ appeal in W.A.No.1073 of 2011 was filed.

3. The issue was the respondent teacher viz., R.Rengasamy was appointed in aided recognized private school as Secondary Grade Assistant with B.Ed qualification and he was appointed so on 21.03.2001.

4. In this context, it is to be noted that between 11.07.1995 and 19.05.1998, an order was passed by a Division Bench of this Court holding that who were all graduate teachers or temporary teachers with the qualification to hold the post of B.T.Assistant, appointed as Secondary Grade Assistant vacancies can be accepted and their appointment can be approved on condition that they should have taken one month Child Psychology training.



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5. Accepting this position, G.O.Ms.No.155, School Education Department dated 03.10.2002 was issued.

6. Subsequently, another Division Bench of this Court disposed of number of cases on 29.06.2001, where the benefit that has been given under G.O.Ms.No.155 was directed to be extended to those who have been appointed even after 19.05.1998 but before 29.06.2011. In order to extend the benefit upto the Division Bench judgment dated 29.06.2001, G.O.Ms.No.150, School Education Department dated 02.07.2007 was issued, thereby those with higher qualification appointed in Secondary Grade Assistant Post in private aided schools upto 29.06.2001 had been approved.

7. When that being the position, the teacher concerned in the present case, who was appointed even though on 21.03.2001 ie., well within the cut off date ie., 29.06.2001, his appointment was not approved. Therefore, he was constrained to approach the writ court by filing a writ petition, which was allowed by the learned single Judge, as against which when appeal was filed in W.A.No.1073 of 2022, the said position having been considered, the Division Bench in the order which is sought to be reviewed herein, has passed the following order in Paragraph 5.

" 5. On going through the materials on record, it is seen that the respondent was appointed as Secondary Grade Teacher on 21.3.2001,



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within the cut off date prescribed by the Government for approval of appointment ie., between 19.05.1998 and 29.06.2001. The Tamil Nadu Recognized Private Schools Manager's Association submitted a list to the Government for approval of appointment of Graduate teachers between the aforesaid period to the Government in which the name of the respondent does not find a place. The learned Single Judge considering the fact that the appointment of the respondent falls within the cut of date prescribed by the Government in G.O.Ms.No.155, rightly directed the appellants to approve the appointment of the respondent as Secondary Grade Teacher with effect from the date of his appointment, ie., 21.03.2001. It is apparent that the respondent is similarly placed as that of other persons who were entitled to the benefit of G.O.Ms.No.155 and no reason has been stated by the Government for exclusion of the name of the respondent in the list submitted by the Association. Under the impugned order, the benefit given to other similarly placed persons was extended to the respondent and no reason has been given by the appellants as to why such benefit should not be extended to the respondent, except by stating that the B.Ed degree obtained by the respondent was from other State and it has not been evaluated. This contention cannot be raised by the appellant at this stage as the said contention was already considered in the earlier round of litigation and the Government has also passed G.O.Ms.No.155, dated 03.10.2002 by fixing a cut off date. When there is no dispute that the appointment of the respondent falls within the cut-off date, we find no reason to entertain the writ appeal, which is liable to be dismissed."

8. Heard Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the petitioners and Mr.L.Chandra Kumar, learned counsel for the respondent. We have gone through the grounds urged by the petitioner in this



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review application.

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9. In fact, in the counter affidavit filed before the writ Court in W.P.No.348 of 2008, it has been stated that the name of the teacher was not mentioned in the list furnished by the Private School Manager's Association.

10. In this context, it is to be noted that the Tamil Nadu Private School Manager's Association made a representation to the Government that some of the teachers ie., 22 nos.of teachers of similar nature had not been included in the list of approval given pursuant to G.O.Ms.No.155. Therefore, the left out names have to be included. That was considered and thus 22 names were included in the list of names, wherein the name of the present teacher was not included. Therefore, that was cited as the main reason for denying approval for the appointment of the teacher.

11. In this context, we do not understand as to on what basis the Private School Manager's Association had been permitted to play a role insofar as the approval of the teachers in sanctioned posts in any private aided recognized School, because the appointment and approval of the teachers in those schools are governed by the Tamil Nadu Private Schools Regulation Act, where, the School Management concerned, after having appointed the teacher, in the manner prescribed under the Rules framed under the Act, has to send the proposal to the



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educational authorities to approve such appointment. Therefore, in this context, if at all the teacher had been appointed on 21.03.2001, well within the cut off date, such appointment should have been approved for which the authorities need not wait for the list to be forwarded by the so-called association viz., Private School Managers Association.

12. The only reason cited by the appellant before the Division Bench was that the name of the teacher was not mentioned in the list furnished by the Private School Manager's Association which was not accepted both by the learned single Judge as well as the Division Bench and also the other reason that the qualification that was earned by the teacher is not from the State of Tamil Nadu, but from outside the State of Tamil Nadu, that was also one of the reasons for which the approval was denied.

13. Though this was contended by the learned Special Government Pleader appearing for the petitioner herein, no such stand has been taken either in the writ petition before the learned Single Judge nor in the writ appeal before the Division Bench. The only reason stated is that name of the teacher herein has not been included in the list furnished by the Private School Manager's Association and the sanctity of the said list submitted by the Association is concerned, we have already expressed our view that, under the provisions of the Tamil Nadu Private School Regulations Act, such a body cannot have any role to play except the management



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of the school concerned. Therefore, for the said reason, the appointment made to the said teacher cannot be refused to be approved. This has been considered exhaustively by the learned single Judge who allowed the writ petition, which has been confirmed by the Division Bench in its judgment dated 06.11.2012. Therefore, we do not find any reason to interfere with the said judgment and since there has been no error apparent on the face of the record in the said judgment of the Division Bench that does not warrant any interference in any way. Hence, the review application fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

14. As a sequel of the dismissal of this review application, there shall be a direction to the petitioner ie., the State Government / Department to give such approval to the teacher concerned for his appointment as Secondary Grade teacher in the school concerned with effect from 21.03.2001 and accordingly the service benefits including the salary arrears shall be calculated and be paid to her within a period of twelve weeks from the date of receipt of a copy of this order.

(R.S.K.,J..) **(K.B.,J.)**
15.09.2023

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Internet : Yes/No
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