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W.P.No.29685 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13..07..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.29685 of 2022
and
W.M.P.Nos.29074 & 29075 of 2022

E.K.M.Abdul Gani Matharasa Islamia High School,
No.26, Cauvery Road,
Erode-638 001,
Rep. by its Correspondent,
G.Muhammad Thaj Muhyideen,
Son of E.K.M.Abdul Gani

..... Petitioner

-Versus-

- 1.The Commissioner,
Directorate of School Education,
DPI Campus, College Road,
Chennai 600006.
- 2.The Chief Educational Officer,
Erode District, Erode.
- 3.The District Educational Officer,
Erode Educational District, Erode.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 2nd respondent in Na.Ka.No.2931/A2/2022 dated 19.09.2022 and to quash the same and to pass orders for approval of



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appointment of Tmt.A.Kaisar Jehani in the post of Special Teacher (Sewing) in the petitioner school from the date of initial appointment on 01.07.2019 with all consequential and other attendant benefits including payment of arrears of salary, within a time frame to be fixed by this court.

For Petitioner : *Mr.G.Sankaran,*
Senior Counsel for
Mr.J.Jayamalan

For Respondents : *Mr.M.Alagu Gowtham,*
Government Advocate
for RR1 to 3

ORDER

This writ petition has been filed challenging the order dated 19.09.2022 passed by the 2nd respondent refusing to grant approval of the appointment of the petitioner as Special Teacher (Sewing) and for consequential relief.

2. The petitioner school is a religious minority institution established by Matharasa Islamia Sangam in 1936. It is a minority aided school assessed with teaching grant by the Government of Tamil Nadu and governed by the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and the rules made thereunder. The petitioner school had a vacancy in the post of Sewing Teacher due to the retirement of the incumbent teacher Tmt.T.Jayanthi Sathiyavadhi on 31.05.2019. It is a sanctioned post. The said vacancy was filled up with Tmt. A.Kaisar Jehani as per the decision taken by



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the appointment committee followed by an order of appointment dated 01.07.2019. The said A.Kaisar Jehani joined duty on the same day of appointment and ever since then she has been continuing in service.

3. It is the case of the petitioner school that their proposal dated 13.03.2020 seeking approval of appointment of A.Kaisar Jehani as Sewing Teacher w.e.f. 01.07.2019 was returned by the 3rd respondent by his proceedings dated 20.07.2020 for want of certain particulars. Accordingly, the said proposal was resubmitted on 22.07.2020 along with requisite documents. The said proposal did not evoke any response and hence, the petitioner school had to approach this court by way of writ petition in W.P.No.5036 of 2020. This court by order dated 07.03.2020 disposed of the writ petition. Pursuant to the directions of this court, the revised proposal was rejected by the authorities on the ground that the teacher appointed was not qualified on the date of her appointment. Hence, this writ petition.

4. The 3rd respondent has filed his counter affidavit inter alia contending that the petitioner school did not give the exact date on which the teacher has qualified in TTC examination. The results were actually published on



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21.02.2020 and not on 01.07.2019 or prior to that.

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5. Heard both sides.

6. The learned senior counsel appearing on behalf of the learned counsel on record for the petitioner relying upon the letter of the Director, Employment and Training, Guindy, Chennai, dated 12.09.2020 addressed to the petitioner school would submit that the teacher appointed has got qualified in TTC in June, 2019.

7. Per contra, the learned Government Advocate would contend that the teacher concerned, on the date of appointment, has only completed her course in TTC and she was not qualified in TTC. Appointment made in violation of rules and regulations is nothing but illegal and same cannot be cured.

8. I have considered the rival submissions and also perused the materials placed before this court.



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9. The petitioner school appointed A.Kaisar Jehani as Sewing Teacher on 01.07.2019. The TTC certificate produced before this court would go on to show that she was qualified in TTC examination. On the date of appointment, the teacher concerned has completed only her Technical Teacher's Course which commenced in September, 2018 and ended with June 2019. The course completion certificate was issued on 28.06.2019 by St. Mary's Technical Teacher's Training Institute, Tenkasi.

10. The respondents however did not dispute that appointment of A.Kaisar Jehani was made as against the vacancy arose in a sanctioned post due to the retirement of the incumbent teacher on 31.05.2019. The teacher was under the process of acquiring the requisite qualification though she had completed the course by June, 2019. It is also not the case of the respondents that the post is surplus. Therefore, there would not be any additional financial burden to the State. The only dispute is that the said teacher who was appointed on 01.07.2019 did not possess the requisite qualification in TTC and she had qualified only on 21.02.2020. Therefore, the teacher shall be deemed to have been appointed on the date when she got qualified in TTC i.e., on 21.02.2020.

There could not be any impediment to the 2nd respondent to approve the



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appointment of A.Kaisar Jehani as Sewing Teacher w.e.f. 21.02.2020.

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In the result, the writ petition is allowed. The impugned order is set aside. The matter is remitted to the 2nd respondent who shall consider the same and pass orders approving the appointment of Tmt. A.Kaisar Jehani as Sewing Teacher in the petitioner school w.e.f. the date on which she has qualified in TTC Examinations within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently connected WMPs are closed.

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Index : yes / no
Neutral Citation : yes / no
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To

- 1.The Commissioner, Directorate of School Education,
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N.SATHISH KUMAR.J.,
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