



W.A.(MD).No.655 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.12.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD).No.655 of 2023
and
C.M.P.(MD).No.5942 of 2023

1.The Chief Educational Officer,
Madurai Educational District,
Madurai.

2.The District Educational Officer,
Melur, Madurai District.

.. Appellants

Vs.

1.R.Dhaslima Nazrin

2.Al Ameen Urdu Tamil High School,
Rep. by its Correspondent,
Melur, Madurai.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 02.09.2022 in W.P.(MD).No.14352 of 2020 on the file of this Court.



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For Appellants : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.D.Sadiq Raja
Additional Government Pleader

For R1 : Mr.E.Mareeskumar

JUDGMENT

(Judgment of the Court was delivered by **V.LAKSHMINARAYANAN,J.**)

This Writ Appeal arises against the order passed in W.P.(MD).No.14352 of 2020, dated 02.09.2022.

2. The admitted case of the appellants is that the post of Secondary Grade Teacher fell vacant, since one Syed Rabia was promoted to B.T. Assistant. Subsequently, the post of Secondary Grade Teacher was upgraded by the proceedings of the 1st appellant vide proceedings dated 20.03.2020 as B.T.Assistant (Tamil). It is a sanctioned post and to the said post, the 1st respondent was appointed. The 2nd respondent school is a stand alone minority institution.

3. The learned Additional Advocate General appearing on behalf of the appellants also fairly submitted that there is no excess or surplus teacher in the



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respondent school. Being a stand alone minority institution, the respondent school had appointed the 1st respondent as a teacher on 04.03.2019. He would rely upon the judgment of this Court dated 31.03.2021 made in W.A.(MD)Nos.76 of 2019 etc., batch (***The Secretary to Government, Government of Tamil Nadu, School Education Department, Fort St.George, Chennai and others Vs. Iruthaya Amali and another***) and would invite our attention to the conclusion at paragraph No.95.

4. Reading of paragraph No.95(v) would show that insofar as the aided minority institutions, which are stand alone institutions, are concerned, right to fill vacancy was held not to be affected for the academic year 2021-22. In this particular case, the appointment was made in the academic year 2018-19. Therefore, the observations made by this Court in Iruthaya Amali's case would not give any assistance to the appellants in this case. Being a stand alone institution with no surplus, the respondents cannot be faulted in exercising their right and appointing a Secondary Grade Teacher, subsequently, upgraded as B.T.Assistant. As the appointment has been made as against the sanctioned post and without surplus, we do not find any reason to interfere with the order of the learned Single Judge.



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5. Accordingly, this Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) & (V.L.N.,J.)
06.12.2023

NCC : Yes / No
Index : Yes / No
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