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W.A.(MD) No.722 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.A.(MD) No.722 of 2023
and
C.M.P.(MD) No.6250 of 2023**

1.The State of Tamil Nadu
rep.by its Secretary to the Education
Department of Education
Fort St.George
Chennai-9

2.The Director of Elementary School Education
College Road, Chennai-6

3.The District Educational Officer
Valliyur, Tirunelveli District

4.The Block Educational Officer
Valliyur, Tirunelveli District

... Appellants

-VS-

Hindu Middle School
Sangaanapuram
Tirunelveli District-627 114
rep.by its Secretary G.Sivamony

... Respondent



W.A.(MD) No.722 of 2023

WEB COPY

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 20.09.2022, passed in W.P.(MD) No.12099 of 2021, on the file of this Court.

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

For Respondent : Mr.K.K.Kannan

J U D G M E N T

[Judgment of the Court was made by V.LAKSHMINARAYANAN, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 20.09.2022, passed in W.P.(MD) No.12099 of 2021.

2. The admitted case of the appellants is that the post of Secondary Grade Teacher fell vacant in the respondent – School due to the retirement of one Ramachandran, who was erstwhile incumbent. It is a sanctioned post and the post fell vacant with effect from 11.01.2019. To the said post, one L.Subulakshmi was appointed. The respondent – School is a stand alone minority institution.



W.A.(MD) No.722 of 2023

WEB COPY

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 respondent – School. Being a stand alone minority institution, the respondent – School had appointed one L.Subulakshmi as a teacher on 18.03.2019. 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. A 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 up vacancy was held not to be affected for the academic year 2021-2022. In this particular case, the appointment was made in the academic year 2018-2019. 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 respondent - School cannot be faulted in exercising their right and appointing a Secondary Grade Teacher. As the appointment has been made as against the sanctioned post



W.A.(MD) No.722 of 2023

WEB COPY

and without surplus, we do not find any reason to interfere with the order of the learned Single Judge.

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.]

20.11.2023

NCC : Yes / No

Index : Yes / No

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W.A.(MD) No.722 of 2023

S.M.SUBRAMANIAM, J.
and
V.LAKSHMINARAYANAN, J.

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W.A.(MD) No.722 of 2023
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20.11.2023