



W.A.(MD).No.619 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.11.2023

CORAM

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

W.A.(MD).No.619 of 2023
and
C.M.P.(MD).No.5808 of 2023

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 2.The Director of School Education,
College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.
- 4.The District Educational Officer,
Mandapam,
Ramanathapuram District.
- 5.The Block Development Officer,
Thiruppullani Block,
Ramanathapuram.

.. Appellants/Respondents



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Vs.

The Correspondent,
Hyrathul Jalalia Primary School,
East Street,
Kilakarai,
Ramanathapuram District.

...Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 02.09.2022 in W.P.(MD).No.20409 of 2021 on the file of this Court.

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

For Respondent : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

JUDGMENT

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

This Writ Appeal arises against the order passed in W.P.(MD).
No.20409 of 2021, dated 02.09.2022.



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2. The admitted case of the appellants is that the post of Secondary Grade Teacher fell vacant due to the retirement of one M.Sasikala, who was erstwhile incumbent. It is a sanctioned post and the post fell vacant with effect from 31.05.2018. To the said post, one M.Ganesh Babu was appointed. The 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 respondent school. Being a stand alone minority institution, the respondent school had appointed one M.Ganesh Babu as a teacher on 08.07.2018. 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



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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 respondent cannot be faulted in exercising their right and appointing a Secondary Grade Teacher. 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. 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
Internet : Yes / No
Lm



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S.M.SUBRAMANIAM,J.
and
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