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W.A.(MD) No.914 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.914 of 2023
and
C.M.P.(MD) No.7356 of 2023**

- 1.The Commissioner of School Education
DPI Campus, College Road
Nungampakkam, Chennai-6
- 2.The Chief Educational Officer
Tenkasi, Tenkasi District
- 3.The District Educational Officer
Tenkasi, Tenkasi District

... Appellants

-vs-

Hidhayathul Islam Higher
Secondary School
rep.by its Manager
Kadayanallur-627 751
Tenkasi District

... Respondent



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 02.09.2022, passed in W.P.(MD) No.15876 of 2022, 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.T.Pon Ramkumar

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 02.09.2022, passed in W.P.(MD) No.15876 of 2022.

2. The admitted case of the appellants is that the post of B.T.Assistant (Maths) fell vacant in the respondent – School due to the retirement of one K.M.Mohamed Asharaf, who was working as B.T.Assistant (Science) and the said post was subsequently converted as B.T.Assistant (Maths). To the said post, one A.S.Haleema Banu was appointed. The respondent – School is a stand alone minority institution.



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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 A.S.Haleema Banu as a teacher on 24.06.2021. 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 2021-2022. 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 B.T.Assistant Teacher. As the appointment has been made as against the sanctioned post



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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.]

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NCC : Yes / No

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