



W.P.(MD)No.6358 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6358 of 2023

D.Antony Sumathi

... Petitioner

Vs.

1.The District Educational Officer,
O/o. District Educational Officer,
Valliyoor, Tirunelveli District.

2.The Block Educational Officer,
O/o.The Block Educational Officer,
Nanguneri, Tirunelveli District.

3.The Correspondent,
Hindu Elementary School,
Kadayankulam – Vijaya Achampadu – 627 652,
Nanguneri Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in regard to the impugned order of return made by the 1st respondent in O.Mu.No.56/A3/2022 dated 23.01.2023 and quash the same and consequently directing the 1st respondent to grant approval of



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appointment in the post of Headmistress and pay the salary from the date of the petitioner initial appointment i.e., 02.04.2018 in the light of the G.O.(Ms). No.97, School Education Department dated 05.07.2001 within the time limit that may stipulated by Court.

For Petitioner : Mr.K.Sankar

For Respondents : Mr.N.Satheesh Kumar,
Addl. Government Pleader for R1 & R2.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner was appointed as Headmistress of the third respondent school with effect from 01.04.2018. Proposal was submitted for approving her appointment. By the impugned order, the first respondent rejected the proposal. Challenging the same, the present writ petition has been filed.



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3.The learned counsel for the petitioner submitted that the third respondent is a minority school. Therefore, Rule 15(4) of Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 will not apply to them. He also relied on G.O.(Ms)No.97, School Education Department dated 05.07.2001 which states that in the case of minority institution, the requirement that the candidate must have five years of experience as Secondary Grade Teacher stood relaxed. He pressed for setting aside the order impugned in this writ petition and granting relief as prayed for.

4.I am not able to accept the contentions of the learned counsel for the petitioner for the present. As rightly pointed out by the learned Additional Government Pleader for the official respondents, the requirement that the candidate must have five years experience as Secondary Grade Teacher stood relaxed only if the management has obtained a certificate that the teachers with the said experience are not available. If the management has failed to get non-availability certificate from the employment exchange, the aforesaid government order cannot be pressed into service. I entirely endorse the aforesaid stand of the official respondents. I, therefore, decline to interfere with the impugned order. However, liberty is given to the petitioner as well as the



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management to submit a fresh proposal to the department after obtaining non-availability certificate as mentioned above. If on the date when the petitioner was appointed, there were no candidates available, the petitioner can very well approach the department.

5. With this liberty to the petitioner and the third respondent to approach the authority with non-availability certificate, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

12.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:-

1. The District Educational Officer,
O/o. District Educational Officer,
Valliyoor, Tirunelveli District.
2. The Block Educational Officer,
O/o. The Block Educational Officer,
Nanguneri, Tirunelveli District.



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G.R.SWAMINATHAN,J.

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