



W.P.(MD).No.7084 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.7084 of 2023

The Manager and Correspondent,
T.M.B. Mcavoy Rural Primary School,
Ottapidaram – 628 401,
Thoothukudi District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
2. The Director of Elementary Education,
College Road,
Chennai – 600 006.
3. The District Educational Officer,
(Elementary Education)
Kovilpatti,
Thoothukudi District.
4. The Block Educational Officer,
Ottapidaram,
Thoothukudi District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding issued by the fourth respondent BEO in Na.Ka.No.456/a2/2023, dated 10.03.2023, quash the same and further direct the third respondent District Educational Officer herein to approve forthwith the appointment of S.Parvathi as Secondary Grade Teacher in the petitioner's School w.e.f., 03.06.2019 and disburse the grant-in-aid towards her salary and allowances w.e.f. the said date with all attendant benefits.

For Petitioner : Ms.Amala

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by an Aided Minority Educational Institution, challenging the rejection of approval for the appointment of Secondary Grade Teacher.

2. According to the learned counsel appearing for the writ petitioner, one S.Parvathy was appointed as Secondary Grade Teacher, on 03.06.2019 and a proposal for approval of her appointment was forwarded to the fourth respondent herein on 27.06.2019. However, citing G.O.(Ms) No.165, School



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Education Department, dated 17.09.2019, the request for approval has been rejected.

3. According to the learned counsel appearing for the petitioner, the present appointment has been made prior to G.O.(Ms) No.165, dated 17.09.2019. That apart, the Hon'ble Division Bench of this Court in W.A.No. 76 of 2019 has held that G.O.(Ms) No.165, dated 17.09.2019 is inoperative.

4. The learned counsel appearing for the petitioner further contended that it is stand alone school and the authorities have issued a staff fixation order for the relevant year which reflects that the petitioner's School is entitled to appoint one Secondary Grade Teacher.

5. Per contra, the learned Government Advocate appearing for the respondents had contended that the teacher appointed should be considered as surplus teacher based upon the staff fixation order for the year 2022-2023.

6. The issue of surplus teacher has to be considered only for the relevant academic year. If the teacher is appointed in a particular academic



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year wherein, there are no surplus teachers, the respondents authorities are duty bound to approve the said appointment. In case, if any teachers become surplus in the next academic year, the said teacher has only to be redeployed and the approval already granted cannot be recalled. The authorities cannot decide the request for approval based upon the latest staff fixation order. Always the request for approval has to be considered only based upon the academic year, in which, the teacher was appointed.

7. In view of the above said facts, the teacher has been appointed in the academic year, in which, there was no surplus and in fact, the staff fixation order clearly pointed that the petitioner Management was entitled to appoint a Secondary Grade Teacher, the order impugned in the writ petition is not legally sustainable and the same is set aside. The fourth respondent is directed to approve the appointment of S.Parvathi as Secondary Grade Teacher in the petitioner's school with effect from 03.06.2019 with all attendant benefits. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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8. With the above said observation, this Writ Petition stands allowed.

There shall be no order as to costs.

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

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R.VIJAYAKUMAR,J.

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