



W.P(MD)No.11102 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.11102 of 2023

and

W.M.P(MD)No.9691 of 2023

L.Innocent Antoniyal

... Petitioner

Vs.

1.The Chief Educational Officer,
Tirunelveli District.

2.The District Educational Officer,
Tirunelveli & District.

3.The Correspondent,
Child Jesus Girls' Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Respondents

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 pertaining to the order passed by the second respondent in his proceedings in O.Mu.No.5326/A3/2021, dated 11.04.2022 and quash the same and consequently direct the respondents to approve the appointment of the petitioner as B.T.Assistant with effect from 12.06.2019 with salary and all consequential benefits.



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For Petitioner : Mr.V.Panneer Selvam
For R-1 & R-2 : Mr.V.Om Prakash
Government Advocate
For R-3 : No appearance

ORDER

The present writ petition has been filed by a B.T Assistant (History) Teacher of the third respondent School challenging the order, dated 11.04.2022 passed by the second respondent herein, wherein the request of the School Management for approval of her appointment was rejected.

2. According to the learned Counsel appearing for the petitioner, the petitioner was appointed as a B.T Assistant (History) Teacher by the third respondent Management on 12.06.2019. The learned Counsel appearing for the petitioner further contends that though the School falls within the Corporate Management, there were no surplus B.T Assistant (History) Teachers in the Corporate Management in the academic year 2019-2020. However, the present impugned order has been passed by the second respondent herein on the ground



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that there are surplus Teachers in the other aided Schools. This order is under challenge in the present writ petition.

3. According to the learned Counsel appearing for the writ petitioner, even as per the impugned order, there is no finding that there are surplus Teachers within the Corporate Management of the third respondent School. They have only pointed out that there are surplus Teachers in the aided Schools falling within the other Corporate Managements.

4. Per contra, the learned Government Advocate appearing for the respondents 1 and 2 had contended that unless the surplus Teachers in the other Schools are accommodated, the third respondent School cannot be permitted to appoint any Teacher in the surplus post.

5. I have carefully considered the submissions made on either side and perused the materials available on record.

6. A perusal of the impugned order clearly indicates that the appointment of the writ petitioner on 12.06.2019 has been rejected on the sole ground that



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there are surplus Teachers in the other aided Schools falling within the other Corporate Management. Therefore, it is clear that there are no surplus B.T Assistant (History) Teachers in the Corporate Management. Any surplus Teachers available in the aided Schools of other Corporate Managements cannot be cited as an impediment for approving the appointment of the writ petitioner.

7. That apart, the Educational Authorities have passed an order on 27.12.2017 re-deploying a B.T Assistant (History) Teacher from another aided School falling within the other Corporate Management to the third respondent School on need basis. On 14.06.2023, the Chief Educational Officer has sought the opinion of the Correspondent of third respondent School to again re-deploy two more Teachers from the other Corporate Management. Therefore, it is clear that the School requires more Teachers but the authorities without approving the appointments in the present School are filling those post by using the surplus Teachers in the other Corporate Managements. This practise cannot be appreciated.



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8. In view of the above said facts, the order impugned in the writ petition is set aside. The respondents are directed to approve the appointment of the writ petitioner as B.T Assistant (History) Teacher with effect from 12.06.2019 with all monetary benefits within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. This writ petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

11.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Chief Educational Officer,
Tirunelveli District.
- 2.The District Educational Officer,
Tirunelveli & District.
- 3.The Correspondent,
Child Jesus Girls' Higher Secondary School,
Palayamkottai,
Tirunelveli District.



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R.VIJAYAKUMAR, J.

BTR

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