



W.P(MD)No.10671 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.10671 of 2023

and

W.M.P(MD)No.9418 of 2023

The Correspondent,
R.C.High School,
Palanganatham-623 003,
Madurai District.

... Petitioner

Vs.

1.The Joint Director of School Education (Secondary),
College Road, Chennai-6.

2.The Chief Educational Officer,
Madurai, Madurai District.

3.The District Educational Officer,
Thirumangalam, Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent Chief Educational Officer in Na.Ka.No.6813/a5/2020, dated --.03.2021 in so far as condition No. 2 and 3 are concerned and the consequential impugned proceeding of the 3rd respondent District Educational Officer in Na.Ka.No.3149/A5/2021 dated 03.01.2022, quash the same and further direct the 2nd respondent Chief Educational Officer



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herein to approve forthwith the appointment of Thiru.A.George Heubert as BT Assistant Tamil in the petitioner's school, w.e.f. 01.06.2018 and to disburse the grant-in-aid towards his salary and other attendant benefits.

For Petitioner : M/s.A.Amala

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

The present writ petition has been filed by a Correspondent of an aided minority school challenging the order passed by the 3rd respondent herein wherein the approval of the appointment of a B.T Assistant (Tamil) Teacher has been rejected.

2. According to the learned counsel appearing for the writ petitioner, one George Heubert was appointed as B.T Assistant (Tamil) on 01.06.2018 within the academic year 2018-19. As per the contentions of the learned counsel appearing for the writ petitioner, there are no surplus B.T Assistant (Tamil) Teachers within the corporate management in the academic year 2018-19. However, when the proposal was forwarded to the 3rd respondent herein, he has rejected the said proposal on the ground that S.L.P as against the orders of this Court in



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W.A(MD)No.76 of 2019 is pending before the Hon'ble Supreme Court and there may be surplus teachers in the corporate management of the petitioner school. Challenging the said order, the present writ petition has been filed.

3. According to the learned counsel appearing for the writ petitioner, the corporate management has sent a communication on 08.03.2021 to the 2nd respondent that there are no surplus teachers in B.T Assistant (Tamil) in the academic year 2018-19 in the corporate management. However, without considering the said aspect, the 3rd respondent has passed the present impugned order.

4. Per contra, the learned Additional Government Pleader appearing for the respondents had contended that the petitioner management has approached the 2nd respondent seeking prior permission for appointing B.T Assistant (Tamil). The permission was actually granted only on 01.04.2021. Even before the permission has been granted by the statutory authorities, the appointment has been effected on 01.06.2018. There is no clarity as to the effect whether there was any B.T Assistant (Tamil) teachers in surplus in the said corporate management. Hence, the order may be sustained.



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5. I have carefully considered the submissions made on either side and perused the material records.

6. It is settled position of law that whether a teacher of a particular school is surplus or not, has to be decided in relation to the number of students in that particular academic year, in which the teacher has been appointed. Therefore, the relevant academic year for considering whether B.T Assistant (Tamil) in the corporate management of the writ petitioner is surplus or not, is the academic year 2018-19. No records have been placed before this Court to establish the fact that the petitioner management had surplus B.T Assistant (Tamil) Teachers in the academic year 2018-19. Without ascertaining the said fact, the 3rd respondent has proceeded to pass the impugned order rejecting the request. The reasons relating to pendency of S.L.P are not relevant for arriving at a decision in the present case.

7. In view of the above said facts, this Court is inclined to pass the following order:

The 3rd respondent is directed to consider the letter submitted by the management on 08.03.2021 to the effect that there are no surplus B.T



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Assistant (Tamil) teachers within the corporate management and arrive at a finding whether there was any surplus teachers in the said academic year or not. In case, if the 3rd respondent arrives at a finding that there are no surplus teachers in the academic year 2018-19, he is directed to approve the appointment of the writ petitioner with effect from 01.06.2018 with all attendant benefits. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of copy of this order.

8. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

28.11.2023

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

- 1.The Joint Director of School Education (Secondary),
College Road, Chennai-6.
- 2.The Chief Educational Officer,
Madurai, Madurai District.
- 3.The District Educational Officer,
Thirumangalam, Madurai District.



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R.VIJAYAKUMAR,J.

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Order made in
W.P(MD)No.10671 of 2023

Dated:
28.11.2023