



W.P(MD)No.13435 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 03.11.2022

Pronounced on : 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13435 of 2020

and

W.M.P.(MD)Nos.11210 and 11212 of 2020

S.Yamuna

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai – 6.
- 3.The Chief Educational Officer,
The Office of the Chief Educational Officer,
Dindigul District.
- 4.The District Educational Officer,
The Office of the District Educational Officer,
Dindigul District.
- 5.The Correspondent,
St.Joseph's Girls' Higher Secondary School,
Dindigul District – 624 001.

... Respondents



W.P(MD)No.13435 of 2020

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 impugned order, dated 13-11-2018, in G.O.Ms.No.238, School Education (Pa.Ku.6(1) Department, on the file of the 1st respondent the consequential staff fixation of the year 2019-2020 dated 24-01-2020 in Na.Ka.No.10092/E1/EE1/2019, on the file of the 3rd Respondent and the consequential proceedings, dated 24-02-2020, in Oo.Mu. No.3480/A1/2019, on the file of the 4th respondent, and quash the same, directing the respondents to approve the appointment of the petitioner, Mrs.S.Yamuna, working in St.Joseph's Grils' Higher Secondary School, Dindigul District – 624 001, w.e.f. 14.07.2018, in the Junior Assistant post, as mentioned in the staff-fixation order of the relevant year 2017-2018 with all service benefits.

For Petitioner : Mr.Father Xavier Arulraj, Senior Counsel
For M/s.Father Xavier Associates.

For Respondents : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.J.Ashok,
Spl. Government Pleader for R1 to R4.
Mr.A.T.Anbarasan for R5.

ORDER

Heard the learned senior counsel for the writ petitioner, the learned Additional Advocate General assisted by the learned Special Government Pleader for the official respondents and the learned counsel for the fifth respondent.

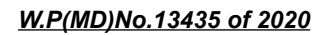


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2.The writ petitioner was promoted as Junior Assistant in the fifth respondent school on 14.07.2018. The fifth respondent school is a minority institution. Proposal for approving the petitioner's appointment was originally submitted and resubmitted on 17.08.2019. Citing G.O.(Ms) No.238, School Education Department, dated 13.11.2018, the proposal was returned. Questioning the said Government Order as well as the consequential proceedings, the present writ petition has been filed.

3.Vide order dated 07.02.2023 in W.P.(MD)No.13428 of 2020, I upheld the validity of G.O.(Ms) No.238, dated 13.11.2018. However, the order returning the proposal pertaining to the petitioner's appointment will have to be interfered with. The petitioner was appointed on 14.07.2018, ie., well before the issuance of G.O.(Ms) No.238, dated 13.11.2018. The said Government Order cannot operate retrospectively. The Hon'ble Division Bench vide order dated 06.12.2020 in W.A.(MD)No.1052 of 2020 had also taken such a view. I, therefore, set aside the order passed by the fourth respondent. The school management is permitted to resubmit the proposal pertaining to the petitioner's appointment to the third respondent. The respondents 3 and 4 are directed to consider the same without reference to G.O.(Ms) No.238, dated 13.11.2018 and



period of six weeks after re-submission of the proposal.

connected miscellaneous petitions are closed.

07.02.2023

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

1. The Principal Secretary,
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Fort St. George, Chennai – 600 009.
2. The Director of School Education,
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3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
Dindigul District.
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G.R.SWAMINATHAN, J.

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07.02.2023