



W.P.(MD).No.12964 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.12964 of 2022

N.Sathya

... Petitioner

Vs.

1.The District Educational Officer,
Office of the Valliyoor District Educational Officer,
Valliyoor,
Tirunelveli District.

2.The Block Educational Officer,
Radhapuram-627 111,
Tirunelveli District.

3.The Correspondent,
St. Xavier's Middle School,
Avudaiyalpuram Village,
Idindankarai Post,
Radhapuram Taluk,
Tirunelveli District.

4.The Director of School Education,
College Road,
Anbalagan Campus (New),
DPI Campus (Old),
Chennai.

... Respondents



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*(Respondent No.4 is suo motu impleaded vide Court order,
dated 10.08.2023 in W.P(MD)No.12964 of 2022)*

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 on the file of the second respondent in connecion with the impugned order of return of approval passed by him in his proceedings No.Na.Ka.No. 413/A2/2021, dated 12.05.2022 quash the same and consequently direct the first and second respondents to grant approval of the petitioner apointment in the post of B.T. Assistant (Science) and pay the salary from the date of the petitioner initial appointment i.e., on 03.06.2019.

For Petitioner : Mr.K.Sankar

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition is for a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in connecion with the impugned order of return of approval passed by him in his proceedings No.Na.Ka.No. 413/A2/2021, dated 12.05.2022 quash the same and consequently direct the first and second respondents to grant approval of the



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petitioner appointment in the post of B.T. Assistant (Science) and pay the salary from the date of the petitioner's initial appointment (i.e.,) on 03.06.2019.

2. Considering the nature of this case, the Director of School Education, is *suo motu* impleaded as fourth respondent.

3. Heard the learned Counsel for the petitioner and the learned Government Advocate for the respondents and carefully perused the materials available on record.

4. The third respondent School is a Minority Single Management recognized School. The petitioner was appointed as B.T. Assistant (Science) in the third respondent School on 01.06.2019 in a vacancy which arose due to the superannuation of one P.Rajalingam, who retired from service on 31.05.2019. The said P.Rajalingam was also approved and in that sanctioned post, the petitioner was accommodated on 03.06.2019 in the post of B.T Assistant (Science). Thereafter, the third respondent had sent a proposal on 02.07.2019 to the respondents 1 and 2 to approve the petitioner's appointment in the post of B.T. Assistant (Science). But the second respondent returned the proposal for



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approval vide impugned order, dated 12.05.2022 stating that the third respondent School is under direct payment of the second respondent and hence, the proposal seeking approval of the petitioner's appointment cannot be considered. Assailing the same, this writ petition came to be filed.

5. The learned Government Advocate for the respondents has filed a counter and he submitted that on the basis of G.O(Ms)No.238 of the School Education Department, the first and second respondents are entrusted with limited powers, as far as the Schools which are under the direct payment of the second respondent and the first respondent do not have the power to approve the proposal of appointment of any teacher, while the said School is under the direct payment under the second respondent. He could exercise such powers only on the direction of the impleaded fourth respondent herein.

6. This is a case where the third respondent School is a recognized Minority Middle School and in view of the internal dispute between the Management Committee, the School came under the direct payment of the second respondent after the death of the Correspondent, namely, K.Anthonymmal on 23.08.2019. However, the petitioner was appointed even



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before that on 01.06.2019 in an approved vacancy which became vacant on the superannuation of the previous incumbent P.Rajalingam. Since the petitioner was appointed in an approved post, the respondent ought not to have returned the proposal to approve his appointment on the ground that the third respondent School is under the direct payment system. The respondents can very well consider the proposal which was sent even before the School came under the direct recruitment.

7. Hence, this Court is inclined to quash the impugned order and thereafter, direct the second respondent to forward the proposal seeking approval of the petitioner's appointment, dated 02.07.2019 to the first respondent and the first respondent in-turn is directed to forward the same to the fourth respondent and the fourth respondent is directed to give necessary instructions to the first respondent to approve the proposal of appointment of the petitioner, dated 02.07.2019 and pass positive orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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8. In the result, this writ petition stands allowed. There shall be no order as to costs.

10.08.2023

NCC : Yes
Index : Yes
Internet : Yes
BTR

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L.VICTORIA GOWRI, J.

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