



W.A.(MD)No.1840 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.1840 of 2023

and

C.M.P.(MD)No.14051 of 2023

1.The Chief Educational Officer,
O/o. The Chief Educational Office,
Ramanathapuram, Ramanathapuram District.

2.The District Educational Officer,
O/o. The District Educational Office,
Mandapam, Ramanathapuram District.

... Appellants

Vs.

1.J.BarakathAlima
2.The Correspondent,
Hameediah Higher Secondary School,
Kilakarai, Ramanathapuram District.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)No.9456 of 2020, dated 02.09.2022 on the file of this Court.

For Appellant : Mr.D.Sadiq Raja,
Additional Government Pleader



W.A.(MD)No.1840 of 2023

JUDGMENT

(Judgment of the Court was delivered by **V.LAKSHMINARAYANAN, J.**)

This Writ Appeal arises against the order passed in W.P.(MD)No.9456 of 2020, dated 02.09.2022.

2.The admitted case of the appellants is that the post of B.T. Assistant (Tamil) fell vacant due to the retirement of one Arumugam, who was erstwhile incumbent. It is a sanctioned post and the post fell vacant with effect from 01.07.2019. To the said post, the 1st respondent was appointed. The 2nd respondent school is a stand alone minority institution.

3.The learned Additional Government Pleader appearing on behalf of the appellants also fairly submitted that there is no excess or surplus teacher in the 2nd respondent school. Being a stand alone minority institution, the school had appointed the 1st respondent as a teacher on 01.07.2019. He would rely upon the judgment of this Court dated 31.03.2021 made in W.A.(MD)Nos.76 of 2019 etc., batch (***The Secretary to Government, Government of Tamil Nadu, School Education Department, Fort St.George, Chennai and others Vs. Iruthaya Amali and another***) and would invite our attention to the conclusion at paragraph No.95.



W.A.(MD)No.1840 of 2023

WEB COPY

4. Reading of paragraph No.95(v) would show that insofar as the aided minority institutions, which are stand alone institutions, are concerned, right to fill vacancy was held not to be affected for the academic year 2021-22. In this particular case, the appointment was made in the academic year 2019-20. Therefore, the observations made by this Court in *Iruthaya Amali's* case would not give any assistance to the appellants in this case. As the appointment has been made as against the sanctioned post and without surplus, we do not find any reason to interfere with the order of the learned Single Judge. Accordingly, this Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

18.10.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva



WEB COPY



W.A.(MD)No.1840 of 2023

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

Yuva

W.A.(MD)No.1840 of 2023

18.10.2023