



W.P.(MD).No.19775 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.19775 of 2023

and

W.M.P(MD) No.16326 of 2023

S.Meenatchi

... Petitioner

Vs.

1. The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Office of the Chief Educational Officer,
Virudhunagar District.
3. The District Educational Officer,
Office of the District Educational Officer,
Aruppukottai,
Virudhunagar District.
4. Saiva Bhanu Kshatriya Girls Higher Secondary School,
Represented by its Secretary,
Aruppukottai – 626 101,
Virudhunagar District.

... Respondents



W.P.(MD).No.19775 of 2023

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 pertaining to the impugned order in O.Mu.No.3555/A1/2019, dated 28.09.2020 on the file of the second respondent and quash the same as illegal and consequently for a direction, directing the second respondent to grant approval to the appointment of the petitioner in the post of B.T.Assistant in Mathematics at the fourth respondent School with effect from 03.01.2019 with all consequential benefits within the time period stipulated by this Court.

For Petitioner	: Mr.T.Aswin Rajasimman for M/s.Lajapathi Roy and Associates
For Respondents	: Mr.V.Om Prakash Government Advocate For -R1 to R3

ORDER

The present writ petition has been filed by a B.T.Assistant, challenging the order passed by the second respondent herein wherein, her appointment was not approved on the ground that interim order had been passed by this Court, dated 09.04.2019 in W.P(MD) Nos.76 and 225 etc., batch.



W.P.(MD).No.19775 of 2023

WEB COPY

2. The fourth respondent School is a Non-Minority Aided Institution. A vacancy arose because one G.Santhi, who was working as Secondary Grade Teacher got promoted as B.T.Assistant on 19.01.2018. In view of the policy decision of the Government that all the Secondary Grade Teacher posts arising for the Classes 6 to 8 should be taken only by B.T.Assistant, the fourth respondent School Management sought prior approval of the authorities to fill up the said post of B.T.Assistant (Tamil Teacher). By way of proceedings dated 20.11.2018, the third respondent herein has granted prior approval for appointing B.T.Assistant (Tamil Teacher).

3. Based upon the said prior approval, the fourth respondent Management has proceeded to appoint the writ petitioner as B.T.Assistant on 03.01.2019. The said appointment order was sent for approval to the Educational Authorities on 03.05.2019. Under the impugned order, dated 28.09.2020, the third respondent herein has passed an order rejecting the said request on the ground that there is an interim order of this Court dated 09.04.2019 W.P(MD) Nos.76 and 225 etc., batch. This order is under challenge in the present writ petition.



W.P.(MD).No.19775 of 2023

WEB COPY

4. The learned counsel appearing for the writ petitioner had contended that the writ petition referred to in the impugned order has already been disposed of on 31.03.2021 and in paragraph No. 95(O) in G.O.(Ms) No.165, School Education Department, dated 17.09.2019 has been held to be inoperative. Even assuming that the said Government order is inoperative, appointment having been made prior to the said G.O namely, on 03.01.2019 has to be approved by the authorities.

5. The learned counsel appearing for the writ petitioner relied upon the Division Bench judgment of this Court, dated 26.07.2023 made in ***W.A.(MD) No.1076 and 1093 of 2018 and etc., (The District Elementary Educational Officer and another Vs. J.Ramilatha and another***. The learned counsel for the writ petitioner further relied upon another Division Bench Judgment in ***W.A.(MD) No.1098 of 2022, dated 16.08.2023 (the Secretary to the Government and three others Vs.R.Jeya Suhi and another)***. The learned counsel appearing for the writ petitioner further relied upon another Division Bench of this Court judgment ***dated 28.08.2023 in W.A(MD) No.1381 of 2023 (The Director of School Education and two others Vs. N.Prathiba and another)***. All the three judgments of the Division Bench of this Court



W.P.(MD).No.19775 of 2023

have laid down the law, that appointment made prior to 17.09.2019 has to be approved by the authorities. The learned counsel for the petitioner has further contended that once prior approval has been granted by the authorities, they cannot turn around and reject approval.

6. Per contra, the learned counsel appearing for the respondents had contended that the Division Bench judgment of this Court in W.A(MD) No.76 of 2019 has been challenged by the State and an order of interim stay has been granted and therefore, the order impugned in the writ petition may not be set aside.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

8. There is no dispute that the fourth respondent Management has sought for prior approval from the educational authorities and approval was also granted by them on 20.11.2018 for appointing B.T.Assistant (Tamil Teacher). Thereafter, the order of appointment has been issued to the writ petitioner on 03.01.2019. Considering the fact that G.O.(Ms) No.165, dated



W.P.(MD).No.19775 of 2023

WEB COPY

17.09.2019 has been held to be inoperative by the Division Bench of this Court in W.A.(MD) No.76 of 2019 and the direction of this Court in the said writ petition, was stayed only with regard to the direction in Government letter (I), this Court is not inclined to accept the contention of the learned counsel for the respondents.

9. That apart, even assuming that the said G.O.(Ms) No. 165, dated 17.09.2019 is operative, three Division Bench judgments of this Court have categorically held that for the appointments made prior to 17.09.2019 the authorities have to approve the said appointment.

10. In view of the above said legal position, the order impugned in the writ petition is set aside and the respondents are directed to approve the appointment of the writ petitioner from 03.01.2019 onwards with attendant benefits within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD).No.19775 of 2023

11. With the above said observations, this Writ Petition stands allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous petition stands closed.

15.11.2023
(1/2)

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Office of the Chief Educational Officer,
Virudhunagar District.
3. The District Educational Officer,
Office of the District Educational Officer,
Aruppukottai,
Virudhunagar District.
4. Saiva Bhanu Kshatriya Girls Higher Secondary School,
Represented by its Secretary,
Aruppukottai – 626 101,
Virudhunagar District.



WEB COPY



W.P.(MD).No.19775 of 2023

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.19775 of 2023

15.11.2023

1/2