



W.P.(MD).No.20747 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.20747 of 2023

and

W.M.P(MD)Nos.17172 & 17174 of 2023

H.Heline Ronica Jesubell

... Petitioner

Vs.

- 1.The Secretary to Government,
Department of School Education,
St.George Fort,
Chennai.
- 2.The Director of School Education,
DPI Compound,
College Road, Chennai.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Valliyur Range,
Tirunelveli District.



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5.The Correspondent,
Samariah St.John's Higher Secondary School,
Tisaiyanvilai,
Tirunelveli 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 in respect of order passed by fourth respondent in O.Mu.No. 1564/ஆ3/2019, dated 26.07.2021 and quash the same and consequently direct the third and fourth respondents to approve the appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (i.e., 04.06.2019).

For Petitioner : Mr.S.Chellapandian
For R-1 to R-4 : Mr.N.Ramesh Arumugam
Government Advocate
For R-5 : No appearance

ORDER

The present writ petition has been filed for a Writ of Certiorarified Mandamus, to call for the records in respect of order passed by fourth respondent in O.Mu.No. 1564/ஆ3/2019, dated 26.07.2021 and quash the same and consequently direct the third and fourth respondents to approve the



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appointment of the petitioner and disburse all the service and monetary benefits from the date of the appointment (i.e., 04.06.2019).

2. Heard the learned Counsel for the petitioner and the learned Government Advocate for the respondents 1 to 4 and carefully perused the materials available on record.

3. The fifth respondent School is a minority Corporate Management School. One Mr.T.Vethamani Jebakumar, who was working as a Physical Education Teacher in the fifth respondent School was transferred on 03.06.2019 in the said sanctioned vacancy. The petitioner was recruited and was appointed on 04.06.2019. Thereafter, the fifth respondent School had sent the proposal of appointment of the petitioner to be sanctioned to the fourth respondent vide proceedings, dated 02.07.2019. On receipt of the same, the fourth respondent returned the said proposal vide impugned order, dated 26.07.2021 for the reason that in a batch of writ appeals in W.A(MD)No.76 of 2018 etc., was pending before the Hon'ble Division Bench of this Court and that there was a direction to the respondents in the said case that unless surplus



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posts are rectified, the appointment made in the Corporate Management Schools ought not to be approved. Challenging the same, this writ petition came to be filed.

4. The learned Government Advocate for the fourth respondent has filed a counter and he submitted that the Physical Education Teacher post was sanctioned only to the School and not to the petitioner and hence, the impugned return of the proposal submitted by the fifth respondent School Management should be challenged only by the School and not by the writ petitioner. That apart, the learned Government Advocate insisted that the post of Physical Education Teacher and the fifth respondent School fell vacant only on 03.06.2019 and only due to an administrative transfer made by the Management and thereafter, the Management submitted proposals seeking approval and the same was also granted by the Department on 15.07.2019. Only thereafter, the post could be declared as vacant. Even before the approval of the said transferred post, as an approved vacancy, the petitioner came to be appointed by the fifth respondent School and such an exercise is not permissible and on that basis, pressed for dismissal of the writ petition.



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5. However, a critical perusal of the impugned return of proposal would reveal that the respondents have impugned the case in their counter by adopting a new ground stating that the said vacancy was approved only on 15.07.2019 and that apart, the fifth respondent School being a minority Corporate Management School prior approval for appointment of Teacher is not necessary. That apart, the main ground taken by the respondents for rejection of the said proposal is no more *res integra* and the ***Hon'ble Division Bench of this Court in W.A(MD)No.1098 of 2022 (The Secretary to the Government and Others Vs. A.Jeya Suhi and Another)*** has dealt with a similar case by its order, dated 16.08.2022 and has passed favorable orders to the writ petitioner and the relevant portion of which is extracted as follows:

"10. This apart, the learned Single Judge, while passing such consequential orders, had directed the educational authorities to grant the required approval in the light of the guidelines issued by the co-ordinate Bench of this Court in its final order in Iruthaya Amali's case dated 31.03.2021. This portion of the order may not be correct in view of our discussion in the foregoing portion of this order. What the authorities ought to have considered is the regulations governing the grant of approval as on the date on which the appointment of the first respondent was made. In other words, the guidelines in the final



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orders of Iruthaya Amali's case dated 31.03.2021 may not be applicable to an appointment that was made way back on 02.06.2018 itself. To this extent, the order of the learned Single Judge requires a modification.

11. Accordingly, the order passed in W.P.(MD).No.8018 of 2021 dated 21.04.2021, insofar as it sets aside the rejection order of the third appellant herein dated 23.11.2020, is hereby confirmed. Consequently, there shall be a direction to the appellants herein to forthwith approve the appointment of Mrs.R.Jeya Suhi/first respondent dated 02.06.2018 in the post of B.T. Assistant (Science), with effect from the date of her appointment and sanction the required grant for the said post as expeditiously as possible, in any event, within a period of four (4) weeks from the date of receipt of a copy of this order."

6. In yet another case in a batch of writ appeals in ***W.A(MD)Nos.1076 of 2018 etc., (The District Elementary Educational Officer and Another Vs. J.Ramilatha and Another)***, the Hon'ble Division Bench of this Court vide its order, dated 26.07.2023 has passed similar orders and the relevant portion of which is extracted as follows:



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7. That apart, in a batch of Writ Petitions in W.P(MD)No. 3194 of 2020 and batch in B.Kurinjimalaron vs State of Tamil Nadu and others [Order dated 18.04.2022], an identical direction was issued in favour of several candidates. In W.A. (MD)No.6340 of 2018 and batch, in S.Helan Raja Soundari vs The District Elementary Educational Officer and others, [order dated 02.09.2022], an identical direction was issued in the case of several other candidates and admittedly, orders of approval have been issued in respect of several of the candidates forming part of that batch.

8. In light of the discussion above and in the interest of uniformity, the same directions are issued in the present matters as well. There is a direction to the State to approve the appointments of the respondents/Writ Petitioners subject to the result of S.L.P.(C)No.15702 of 2021 challenging order dated 31.03.2021 passed in W.A.(MD)No.76 of 2019, within a period of six weeks from date of receipt of a copy of this order

7. Fully in consonance to the aforesaid two judgments, the impugned order of return, dated 26.07.2021 is hereby quashed and the petitioner is directed to submit a fresh representation to the fifth respondent School. The



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fifth respondent School is directed to submit a fresh proposal seeking approval of the appointment of the petitioner with effect from 04.06.2019 immediately on receipt of the copy of this order. The fourth respondent on receipt of the same is directed to further forward the same to the fourth respondent and the fourth respondent on receipt of the same is directed to forthwith the appointment of the petitioner. I make it clear that the said appointment would be subject to the outcome of the order to be passed by the Hon'ble Apex Court in the S.L.P(C)No.15702 of 2021.

8. This writ petition stands allowed, accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

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NCC : Yes
Index : Yes
Internet : Yes
BTR



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L.VICTORIA GOWRI, J.

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