



W.P.(MD).No.19883 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.19883 of 2016

and

W.M.P.(MD).Nos.14346, 14347 of 2016 and 13966 of 2018

Mary Susheela

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
- 2.The District Educational Officer,
Kuzhithurai,
Kanyakumari District.
- 3.The Bishop of Kottar,
R.C.Diocese of Kottar,
Nagercoil,
Kanyakumari District.
- 4.The Superintendent of R.C.Schools,
Diocese of Kottar,
Nagercoil,
Kanyakumari District.



W.P.(MD).No.19883 of 2016

5.The Commissioner,
R.C.Diocese of Kottar,
Nagercoil,
Kanyakumari District.

6.The Correspondent,
St.Bernadette's Higher Secondary School,
Mangalakundru, Mangalakundru Post,
Kanyakumari District.

7.D.John Bernadettes

... 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 pertaining to the impugned appointment order, dated 22.07.2016, issued by the sixth respondent to the seventh respondent, and quash the same as illegal and consequently direct the respondents 3 to 6, in particular the sixth respondent to appoint the petitioner for the post of “Lab Assistant” in the sixth respondent's School.

For Petitioner : Mr.C.Kishore

For R-1 and R-2 : Mr.D.Sadiq Raja,
Additional Government Pleader.

For R-3 to R-6 : Mr.K.Ragatheesh Kumar,
for M/s.Isaac Chambers

For R-7 : Mr.S.Xavier Rajini



W.P.(MD).No.19883 of 2016

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ORDER

This Writ Petition is filed for Certiorarified Mandamus challenging the impugned appointment order dated 22.07.2016 issued by the sixth respondent to the seventh respondent and consequently direct the respondents 3 to 6 in particular the sixth respondent to appoint the petitioner in the post of Lab Assistant.

2. The respondents 3 to 6 are managing the affairs of the Minority Educational Institution. The Lab Assistant post in the sixth respondent School fell vacant and the sixth respondent has considered the seventh respondent candidature and appointed in the said post. The seventh respondent is a inhouse candidate, where he was working as Vocational Instructor from 02.07.1999. The said post is a Self Finance post.

3. If it is a Self Finance post, this Court has no jurisdiction to entertain this Writ Petition. Moreover, the petitioner is seeking to enforce by-laws of the third respondent society. It is a settled proposition that by-laws of the Society cannot be enforced under Article 226 of the Constitution of India. The only



W.P.(MD).No.19883 of 2016

remedy available is filing of suit. Therefore, this Court is not inclined to entertain this Writ Petition. However, the petitioner is seeking liberty to agitate the issue before the appropriate civil court. The petitioner is always having right to agitate under the appropriate Court.

4. With the above observations, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

01.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
- 2.The District Educational Officer,
Kuzhithurai,
Kanyakumari District.



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W.P.(MD).No.19883 of 2016

S.SRIMATHY, J.

Nsr

W.P.(MD).No.19883 of 2016

01.03.2023