



W.P.(MD).No.24935 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24935 of 2022

and

W.M.P(MD) Nos.19026, 19027 and 19030 of 2022

S.Sathya

... Petitioner

Vs.

1. The Director of School Education,
DPI Compound, College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Office of the Chief Educational Officer,
Tirunelveli District.
3. The District Elementary Educational Officer,
Office of the District Elementary Educational Officer,
Cheranmahadevi,
Tirunelveli District.
4. The Block Educational Officer,
Office of the Block Educational Officer,
Ambasamudram,
Tirunelveli District.
5. Mohideen Fathima Middle School,
Represented by its Secretary,
Sankarankovil Road, Ambasamuthiram,
Tirunelveli District.

... Respondents



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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 Na.Ka.No.3206/Aa2/2019, dated 25.11.2019 and the consequential impugned order in Na.Ka.No.975/Aa4/2020, dated 23.04.2021 on the file of the third respondent and quash the same as illegal and consequently direct the third respondent to grant approval to the appointment of the petitioner in the post of Secondary Grade Teacher at fifth respondent school with effect from 18.03.2019 and disburse all other monetary 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 R4

: No appearance for - R5

ORDER

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



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2. The fifth respondent School is a Non-Minority School. A vacancy arose because of the retirement of one Mrs.T.Jesupatham Lidiyaal, on 30.06.2018. 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 fifth respondent School Management sought to prior approval of the authorities to fill up the said post of Secondary Grade Teacher. By way of proceedings dated 28.02.2019, the third respondent herein has granted prior approval for appointing Secondary Grade Teacher.

3. Based upon the said prior approval, the fifth respondent School has proceeded to appoint the writ petitioner as Secondary Grade Teacher on 18.03.2019. The said appointment order was sent for approval to the Educational Authorities on 20.03.2019. Under the impugned order, dated 25.11.2019, 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.



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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



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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 fifth respondent School has sought for prior approval from the educational authorities and approval was also granted by them on 28.02.2019 for appointing Secondary Grade Teacher. Thereafter, the order of appointment has been issued to the writ petitioner on 18.03.2019. Considering the fact that G.O.(Ms) No.165, dated 17.09.2019 has been held



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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 18.03.2019 onwards with attendant benefits within a period of twelve weeks from the date of receipt of a copy of this order.



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

There shall be no order as to costs. Consequently, connected Miscellaneous petitions stand closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR,J.

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