



W.P(MD)No.27218 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.27218 of 2022

and

W.M.P(MD)No.21359 of 2022

The Correspondent,
St.Francis Xavier Higher Secondary School,
Kuttathu Avarampatty-624 002,
Kuttathupatty, Dindigul District.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.

2.The Commissioner of School Education,
College Road,
Chennai-600 009.

3.The Chief Educational Officer,
Dindigul, Dindigul District.

4.The District Educational Officer,
Dindigul, Dindigul 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 relating to the impugned proceeding issued by the 4th respondent District Educational Officer vide impugned proceedings in Na.Ka.No.1143/a2/2022, dated --.08.2022, quash the same and further direct the 3rd respondent Chief Educational officer herein to approve forthwith the appointment of F.Joseph as B.T Assistant Science in the petitioner's school w.e.f., 12.04.2021 and disburse the grant-in-aid towards his salary and allowance w.e.f., the said date with all attendant benefits.

For Petitioners : M/s.A.Amala

For Respondents : Mr.N.GA.Natraj
Government Advocate

ORDER

The present writ petition has been filed by the Correspondent of an aided minority school under corporate management, challenging the order passed by the 4th respondent herein.

2. According to the school management, one F.Joseph was appointed as B.T Assistant (Science) on 12.04.2021 in the sanctioned post and the proposal was sent for approval to the 4th respondent herein.

The 4th respondent by his order in March 2022, had returned the said



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proposal on the ground that the Correspondent has to follow G.O.Ms.No. 165 School Education Department, dated 17.09.2019. When the said fact was clarified by the management, the present impugned order has been passed on 24.08.2022 assigning the same reason. Hence, the present writ petition.

3. According to the learned counsel appearing for the writ petitioner, there are no surplus teachers in the corporate management and the appointment has been made within the sanctioned strength of the school. That apart, G.O.Ms.No.165 has been held to be inoperative by the Hon'ble Division Bench of this Court in W.A(MD)No.76 of 2019, dated 31.03.2021. In view of the above said facts, the order impugned in the writ petition is not sustainable.

4. Per contra, the learned Government Advocate appearing for the respondents had contended that the authority may be directed to reconsider the order in the light of the fact that G.O.Ms.No.165, dated 17.09.2019 is not in operation.



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5. Considering the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 4th respondent. The 3rd and 4th respondents are directed to pass fresh orders without any reference to G.O.Ms.No.165, dated 17.09.2019. The authorities shall specifically consider the issue whether there is any surplus B.T Assistant (Science) Teachers in all the schools falling within the corporate management. If there are no surplus Teachers in the corporate management in the academic year 2020-21, they shall proceed to approve the appointment of the concerned candidate with effect from 12.04.2021. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of copy of this order.

6. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

30.11.2023

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

1. The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai-600 009.
2. The Commissioner of School Education,
College Road,
Chennai-600 009.
3. The Chief Educational Officer,
Dindigul, Dindigul District.
4. The District Educational Officer,
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R.VIJAYAKUMAR,J.

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Order made in
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Dated:
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