



W.P.(MD).No.27320 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.27320 of 2023

and

W.M.P(MD) No.23472 of 2023

A.Tamil Selvi

... Petitioner

Vs.

1. The District Educational Officer (Elementary)

Thoothukudi @ Pudukottai,
Thoothukudi District.

2. The Block Educational Officer,

Thoothukudi Rural @ Pudukottai,
Thoothukudi District.

3. The Secretary,

Hindu Primary School,
Chettiurani, Thattaparai Post,
Thoothukudi District – 628 304.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent herein vide in Oo.Mu.No.368/A1/2019, dated 08.09.2023 and quash the same and further direct the first respondent herein to approve the petitioner's



W.P.(MD).No.27320 of 2023

appointment as Secondary Grade Teacher in the third respondent School w.e.f the date of appointment viz., 22.03.2019 with salary and attendant benefits.

For Petitioner : Mr.A.Ajith Geethan

For Respondents : Mr.N.GA.Natraj
Government Advocate
for R1 and R2

ORDER

The present writ petition has been filed by a Secondary Grade Teacher appointed in the third respondent School seeking to quash the order passed by the second respondent herein, wherein, the approval for her appointment was rejected.

2. According to the learned counsel appearing for the writ petitioner, the third respondent school is a Non-Minority Aided Institution. As per the staff fixation order for the academic year 2017 – 2018, the school was entitled to fill up the Secondary Grade Teacher post. The third respondent School had addressed a communication to the first respondent seeking prior permission to appoint a Secondary Grade Teacher. By an order, dated 25.02.2019 permission was granted subject to certain conditions.



W.P.(MD).No.27320 of 2023

WEB COPY

3. Based upon the said permission, the third respondent School has appointed the petitioner as Secondary Grade Teacher on 22.03.2019 and the School has sent a proposal on the same day for approval to the second respondent herein under the impugned order. The second respondent has rejected the said request for approval, on the ground that the appeal filed by the State as against W.A.(MD) No.76 of 2019 is pending before the Hon'ble Supreme Court. Challenging the said order, the present writ petition has been filed.

4. According to the learned counsel appearing for the petitioner, the third respondent school being a Non-Minority stand alone School, the issue of surplus would not arise. That apart, the staff fixation order as well as the prior permission granted by the authorities would clearly reveal that the third respondent school is entitled to appoint the writ petitioner.

5. Per contra, the learned Government Advocate appearing for the respondents 1 and 2 had contended that the issue of surplus teachers is pending before the Hon'ble Supreme Court and in view of the said pendency, the rejection order has been passed.



W.P.(MD).No.27320 of 2023

WEB COPY

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

7. There is no dispute that as per the staff fixation order for the academic year 2017-2018, the petitioner is eligible to fill up the Secondary Grade Teacher post. The first respondent herein, by his order, dated 25.02.2019 had granted prior permission to the third respondent school to appoint the Secondary Grade Teacher. The petitioner School being a stand alone school, the question of surplus would not arise. Therefore, the reason assigned in the impugned order is not relevant for the purpose of granting approval to the appointment of the writ petitioner.

8. In view of the above said deliberations, the order impugned in the writ petition is set aside and the respondents are directed to approve the appointment of the writ petitioner as Secondary Grade Teacher in the third respondent School with effect from 22.03.2019 with all attendant benefits. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD).No.27320 of 2023

WEB COPY

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

No costs. Consequently, connected Miscellaneous Petition is closed.

17.11.2023

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

To

1. The District Educational Officer (Elementary)
Thoothukudi @ Pudukottai,
Thoothukudi District.
2. The Block Educational Officer,
Thoothukudi Rural @ Pudukottai,
Thoothukudi District.
3. The Secretary,
Hindu Primary School,
Chettiurani, Thattaparai Post,
Thoothukudi District – 628 304.



WEB COPY



W.P.(MD).No.27320 of 2023

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.27320 of 2023

17.11.2023