



W.P.No.1033 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1033 of 2024 and
W.M.P.Nos.1083 & 1084 of 2024

Maria Asha J.P.

...Petitioner

-Vs-

1. The Government of TamilNadu
Represented by its Principal Secretary,
Department of School Education,
Fort St., George, Chennai-600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Office of the Chief Educational Officer,
District Collector Office, Block No.2,
Sathuvachari,
Vellore – 632 009.
4. The District Educational Officer,
Office of the District Educational Officer,
District Collector Office, Block No.2,
Sathuvachari,
Vellore – 632 009.



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5. The Correspondent,
St., Mary's Girls Higher Secondary School,
Vellore,
Vellore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order dated 12.02.2021 in A.Thi.Mu.No.506/AA3/2021, on the file of the 4th respondent and quash the same, directing the respondents 1 to 4, to accord approval to the appointment of the petitioner, Mrs.Maria Asha J.P, working as B.T.Asst (Science) in the 5th respondent St. Mary's Girls' Higher Secondary School, Vellore District, w.e.f., 03.06.2019, with all service and monetary benefits.

For petitioner : Mr.Father Xavier Arul Raj
Senior counsel for
M/s.Father Xavier Associates

For respondents 1 to 4 : Mr.K.H.Ravi Kumar,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the 4th respondent dated 12.02.2021 thereby returned and rejected the proposal sent by the 5th respondent for approval of appointment of the petitioner as B.T. Asst. (science) with effect from 03.06.2019.



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2. The petitioner was appointed as B.T.Asst., (Science) in the St. Mary's Girls' Higher Secondary School, Vellore with effect from 03.06.2019, in the vacancy arising out of the retirement of one, Mrs.Leoni Florencia. The said post is a regular sanctioned post with Grant-in-Aid from the Government. After her appointment, the 5th respondent had sent a proposal for the approval of the petitioner's appointment. However, it was rejected by order dated 12.12.2021 on the ground that as per G.O.Ms.No.165 dated 17.09.2019 and as per the judgment of this Court dated 09.04.2019, vacant posts have to be filled up with the surplus teachers and approval should not be granted to the new appointments. As per the judgment in the case of *Secretary to Government and others vs Iruthaya Amali and another in W.A(MD).Nos.76 of 2019 etc., batch cases* reported in *2021 SCC online Mad 1285*, the said Government order in G.O.Ms.No.165 dated 17.09.2019 was declared as inoperative.



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3. Therefore, once again the 5th respondent submitted proposal for approval of the appointment of the petitioner as B.T.Assisant (Science) with effect from 03.06.2019 and the same was pending on the file of the 4th respondent for consideration.

4. However, the 4th respondent passed an order before the declaration of G.O.Ms.No.165 dated 17.09.2019 as inoperative. In the light of the above judgment in W.A(MD).No.76 of 2019 passed by Madurai Bench of this Court dated 31.03.2021, this court cannot find any infirmity or illegality in the order passed by the 4th respondent dated 12.02.2021 in A.Thi.Mu.No.506/AA3/2021. However, the petitioner and the 5th respondent are at liberty to send a fresh proposal to the respondents for the approval of the appointment of the petitioner with effect from 03.06.2019. The respondents are directed to pass orders on merits and in accordance with law on the fresh proposal send by the 5th respondent within a period of twelve weeks from the date of receipt of copy of this order.



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5. With the above direction, this writ petition is disposed of. No

costs. Consequently, connected miscellaneous petitions are closed.

19.01.2024

Index : Yes/No
Internet: Yes/No
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To

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