



W.P.No.4638 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.4638 of 2023  
and W.M.P.Nos.4632 & 4633 of 2023

Deivasigamani Government Aided Middle School,  
Rep. by its Correspondent,  
Kaladipet,  
Thiruvottiyur,  
Tiruvallur District,  
Chennai – 600 019.

... Petitioner

Vs.

1. The Director of Elementary Education,  
DPI Campus, College Road,  
Chennai – 600 006.
2. The District Educational Officer (Elementary)  
Ponneri Education District,  
Office at Sholavaram,  
Chennai – 600 057,  
Tiruvallur District.
3. The Block Educational Officer-1,  
Puzhal Block,  
Tiruvallur District,  
Chennai – 600 066.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for records relating to the impugned proceedings issued by the third respondent in



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Na.Ka.No.21/A1/2023 dated 27.01.2023 and to quash the same and consequently directing the respondents to approved the appointment of Teacher G.Saritha in the regular sanctioned post of Craft Teacher (Tailoring) in the petitioner school from the date of appointment on 14.12.2022 and to make the payment of salary with consequential and other benefits.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mrs.S.Mythreye Chandru  
Special Government Pleader

### **ORDER**

This writ petition has been filed challenging the order passed by the third respondent dated 27.01.2023, thereby refused to approve the appointment of G.Savitha in the post of Craft Teacher (Tailoring) in the petitioner school.

2. The petitioner school is a government aided private school. The petitioner school sanctioned with teaching and non teaching post by the education department. There is only one post of full time Craft Teacher (Tailoring) sanctioned to the petitioner school. It becomes vacant from 01.02.2017 due to retirement of incumbent on 31.01.2017. In order to fill up the said vacancy, the petitioner school notified the said vacancy through employment exchange and also paper advertisement. After due



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selection process, appointed one G.Saritha as Craft Teacher (Tailoring), as per resolution dated 14.12.2022. After her appointment, the petitioner forwarded the proposal to the second respondent through third respondent seeking approval of her appointment.

3. However, it was initially rejected on the ground that as per the government order in G.O.Ms.No.165 School Education Department dated 17.09.2019, no new post can be created involving expenditure in government exchequer. Subsequent to the final order passed in W.A.(MD).No.79 of 2019 etc., batch cased on 31.03.2021, the said government order was declared as inoperative and unenforceable. Therefore, once again the petitioner had sent the proposal to approve the appointment of Craft Teacher (Tailoring) and the same was rejected by the impugned order dated 27.01.2023 on the very same ground. Hence, the petitioner school filed the present writ petition.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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5. The issue involved in this writ petition has already been dealt with by this Court in several writ petitions and in W.P.No.17909 of 2023 etc., cases by an order dated 15.09.2023, this Court held as follows:

*"6. It is relevant to note that while setting aside the order dated 07.01.2020 passed by the 3rd respondent rejecting the proposal seeking approval of appointment of the petitioner, this Court in W.P.No.3439 of 2020 dated 18.04.2022, in Para 10 has held as under:-*

*10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD).No.76 of 2019 etc., G.O.Ms.No.165 issued by the School Education Department, dated 17.09.2019 will not prohibit the educational authorities to approve the appointment made by the School Management in the instant writ petitions since the proposals for approval of appointment made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.09.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.09.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by*



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*the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed."*

*7. In the earlier round of litigation, proposal was rejecting citing that G.O.Ms.No.165 dated 17.09.2019 was operating in the field. It is to be noted that this Court in its order has clearly held that G.O.Ms.No.165 dated 17.09.2019 would not be a bar to the case of the petitioner and it would not be applicable to the teachers who were appointed prior to the Government Order in G.O.Ms.No.165 dated 17.09.2019. Still the impugned order came to be passed on the ground that surplus teachers.*

*8. It is relevant to note that the very issue was whether G.O.Ms.No.165 dated 17.09.2019 was applicable to the petitioner case or not? This court has categorically stated that G.O.Ms.No.165 dated 17.09.2019 was only prospective in nature and approval have to be given in the cases where appointment of teachers were made prior to the said Government Order. Having non-suited the petitioner in the earlier round of litigation citing G.O.Ms.No.165, now the impugned order has been passed on a different ground. The authorities cannot take different stand at different points of time to stick on their stand so as to*



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*negate the claim of the petitioner. Be that as it may, the impugned order came to be passed not on merits but the proposal was rejected merely on the ground that there are surplus teachers.*

*9. In the light of the above discussion and the factual matrix of the case, the impugned order is set aside and the matter is remitted back to the 3rd respondent for considering the proposal afresh and passing orders granting approval as sought by the school management, provided it satisfies all the norms prescribed for such appointment and the rules. While passing orders of the proposal, the 3rd respondent shall keep in mind the directions given by this Court in W.P.No.3439 of 2020 dated 18.04.2022. If the authority concerned wants to raise any further query or make clarification, the same may be had from the school management. The said exercise shall be completed within a period of twelve weeks from the date of receipt of copy of this order."*

6. In the light of the above judgment, the order passed by the third respondent cannot be sustained and liable to be quashed. Accordingly, the impugned order dated 27.01.2023 passed by the third respondent in Na.Ka.No.21/A1/2023, is hereby quashed. The third



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respondent is directed to approve the proposal sent by the petitioner school for the appointment of the one G.Saritha as Craft Teacher (Tailoring) in the petitioner school with effect from date of her appointment i.e., on 14.12.2022, with all attendant benefits including arrears of salary and other allowances and disburse the same within a period of six weeks from the date of receipt of a copy of this Order.

7. With the above directions, this Writ Petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index : Yes/No  
Speaking/Non Speaking order  
Neutral Citation : Yes/No  
rts

To

1. The Director of Elementary Education,  
DPI Campus, College Road,  
Chennai – 600 006.
2. The District Educational Officer (Elementary)  
Ponneri Education District,  
Office at Sholavaram,  
Chennai – 600 057,  
Thiruvallur District.
3. The Block Educational Officer-1,



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**G.K.ILANTHIRAIYAN. J.**

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W.P.No.4638 of 2023 and  
W.M.P.Nos.4632 & 4633 of 2023

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