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W.A.No.2160 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM:

THE HON'BLE MR.D.KRISHNAKUMAR
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.2160 of 2024 and
C.M.P.No.15301 of 2024

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
2. The Chief Educational Officer,
Kallakurichi District,
Kallakurichi.
3. The District Elementary Educational Officer,
Kallakurichi District,
Kallakurichi.
4. The Block Educational Officer,
Chinnasalem, Kallakurichi District.

... Appellants/Respondents

-VS-

1. D.Kurinjimalaron
2. The Correspondent,
Danish Mission Primary School,
Alathi Kalvarayan Hills,
Kallakurichi District-606 207.

... Respondent/Petitioner

... Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.09.2023 made in W.P.No.17914 of 2023 and allow this Writ Appeal.



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W.A.No.2100 of 2023

For Appellants : Mr.J.C.Durairaj
Addl. Govt. Pleader

J U D G M E N T

(By D.Krishnakumar,J.)

This Writ Appeal has been filed against non-sanction of approval for appointment to the post of Teacher in the minority institution, on the ground that the 1st respondent does not have the qualification of Teacher Eligibility Test (TET).

2. The Writ Petitioner was appointed as Secondary Grade Teacher on 13.12.2018 in the 2nd respondent school herein and a proposal was forwarded to the 3rd respondent by the 4th respondent in the Writ Petition for necessary approval, which was rejected vide impugned order dated 25.05.2023, on the ground that the Writ Petitioner has not passed TET;

3. When the impugned order was put to challenge before the Writ Court, the same was quashed with a direction to the 3rd respondent therein to consider the proposal afresh, bearing in mind the directions issued by this Court in W.P.No.3439 of 2020 dated 18.04.2022. Aggrieved by the same, the Appellants / Government are before this Court.



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4. When the matter is taken up for hearing, learned Additional Government Pleader for the appellants fairly stated that proposal submitted by the Institution / School in respect of appointment of 1st respondent herein will be considered and appropriate orders will be passed thereon without reference to G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department dated 17.09.2019. He also drew the attention of this Court to the order passed by this Court in a batch of cases involving identical issue in W.A.Nos.2319, 2268, 2407, 2590, 2591, 2717, 2835 and 764 of 2022 dated 08.07.2024.

5. It is worthwhile to mention here that one of us (DKKJ), while hearing the similar issue singly in the case of **Fahmidunnisa vs. The Director of Elementary Education, College Road, Chennai-6 [W.P.No.14240 of 2022] decided on 15.6.2022**, discussed the scope of G.O.Ms.No.165, in consonance with the judgment of a Division Bench of this Court dated 18.04.2022 and held as follows:

“2. The prayer as sought for in the instant writ petition is squarely covered by the judgment of this Court ***dated 18.4.2022 in W.P.No.3194 of 2020, etc. Batch case [B.Kurinjimalaron vs. The State of Tamil Nadu rep. by its Secretary, Education Department, Fort St. George, Chennai-9]*** wherein this Court held as follows:

"9. On perusal of the judgment of the Division Bench of this Court in the aforesaid Batch of cases and also the G.O.Ms.No.165 issued by the School Education Department, dated 17.9.2019, both the judgment as well as G.O.Ms.No.165 are prospective in nature. The appointments made by the School Management in the instant writ petitions are prior to the issuance of



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G.O.Ms.No.165 dated 17.9.2019 and proposals for the said appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, there is no legal impediments for the respondents to accord approval to the appointment made by the School Management in the instant writ petitions.

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 17.9.2019 will not prohibit the educational authorities to approve the appointments made by the School Management in the instant writ petitions since the proposals for approval of appointments made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.9.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed.

11. Accordingly, the impugned orders passed by the respondent department in the aforesaid writ petitions are quashed and remitted to the Chief Educational Officers/District Educational Officers concerned, to consider and pass an order of approval of the appointments made by the School management, provided the said proposals satisfies all the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order. It is made clear that those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief granted hereinabove."

3. In the light of the judgment cited supra, the impugned order passed by the second respondent is quashed and remitted to the second respondent to consider and pass an order of approval of the appointment made by the fourth respondent School, in the light of the judgment cited supra, provided the said proposal satisfies all the norms prescribed for such appointment and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order."

Thereafter, no appeal has been filed as against the said order dated 15.06.2022 and therefore, it attained finality. In the said order dated 15.06.2022, it was made clear that



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those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief.

6. Admittedly, the 1st respondent herein was appointed before issuance of G.O.Ms.No.165 dated 17.9.2019 and the proposal was also forwarded to the concerned authorities prior to the said order. For all the above reasons and in view of the fairness shown by the learned Additional Government Pleader for the appellants and in the light of the order dated 15.06.2022 passed in the Writ Petition (supra), this Writ Appeal is disposed of, with a direction to the appellants herein to consider and pass an order of approval of the appointment made by the Management/R2 herein, provided the said proposal satisfies the norms prescribed for such appointment and as per the Rules within a period of twelve weeks from the date of receipt of a copy of this judgment, bearing in mind the afore-stated order. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,ACJ.]

[K.B.,J.]

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Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

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