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W.P.No.5048 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM :

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

W.P.No.5048 of 2024

The Correspondent,
Athar Jamath High School,
MCR Nagar, Muthu Colony,
Karumbukkadai,
Coimbatore District

...Petitioner

-Vs-

- 1.The Chief Educational Officer,
O/o the Chief Education Office,
Coimbatore
- 2.The District Educational Officer,
O/o. The District Educational Office,
Coimbatore,
Coimbatore District

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first and second respondents to grant approval of appointment for Mr.A.L.Abdul Rahim in the post of B.T.Assistant(English) and pay the salary and all arrears of



W.P.No.5048 of 2024

salary from the date of his initial appointment i.e. on 01.06.2018 based on petitioner representation dated 29.11.2023 in the light of W.P.(WD)No.17955 of 2023 dated 01.11.2023 within the time limit that may be stipulated by this Court.

For petitioner : Mr.K.Sankar

For respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader

ORDER

This writ petition has been filed for direction to respondents 1 and 3 to grant approval of appointment of one, A.L.Abdul Rahim in the post of BT.Assistant (English) with effect from 01.06.2018.

2. The petitioner school is a recognised minority aided school. The Secondary Grade Teacher i.e. M.Mohammed Nazar was working in the petitioner School and subsequently the school was upgraded in the year 1999-2000 from Middle School to High School thereby he was absorbed to BT Assistant (History). After his retirement as on 31.05.2018, there was vacancy arose in the said post. The petitioner school had appointed one, A.L.Abdul Rahim as BT Assistant(English) with effect from



W.P.No.5048 of 2024

01.06.2018 as he is qualified with BA(English) and B.Ed. After his appointment, the petitioner school sent a proposal for approval of his appointment before the second respondent. However, it was returned by its communication dated 14.10.2019 on the ground that GO.Ms.No.165 School Education Department dated 17.09.2019 is followed. Once again, the petitioner resubmitted the proposal along with all particulars to the second respondent. However, it was rejected by the order dated 20.06.2002 on the ground that conversion of subject is not possible. Once again, the petitioner School resubmitted the proposal. However, so far, it has not been considered.

3. The learned counsel for the petitioner would submit that in the order passed by the Hon'ble Madurai Bench of this Court in WP(MD).No.17955 of 2023 dated 01.11.2023, the issue of subject roster and conversion of post has been settled. It is relevant to extract the relevant portion of the judgment hereunder:

"22. The order of the learned Single Judge in the above case clearly lays down the dictum that



WEB COPY



W.P.No.5048 of 2024

G.O.Ms.No.244 School Education Department, dated 22.09.2007 is not applicable to a recognized Private School. The learned Single Judge had further held that G.O.Ms.No.144, School Education Department, dated 04.07.2008 cannot be a basis to deny approval unless the Tamil Nadu Recognised Private Schools (Regulation) Act, 1974 is amended and notified in gazette. The said writ petition was filed to quash G.O.Ms.No.144, School Education (DI) Department dated 04.07.2008. The learned Single Judge was pleased to allow the writ petition.

23. The said judgment of the learned Single Judge has been approved by the Hon'ble Division Bench in a judgment reported in 2018(1) WLR 410 (The Government of Tamil Nadu & others Vs. J.Remila & others) dated 14.11.2017 and another Division Bench judgment in W.A.(MD) No.201 of 2020 (The Director of School Education & others Vs. The Correspondent, St. Joseph's Higher Secondary School, Tuticorin) dated 14.08.2020. Therefore, this court is of the considered opinion that those two Government orders are not enforceable as against the aided Schools whether minority or non-minority until the Act and statutory rules are amended."



W.P.No.5048 of 2024

WEB COPY

27. In view of the above said facts, the impugned order of return passed by the fourth respondent dated 28.06.2023 citing the non- compliance of G.O.Ms.No.144, School Education (DI) Department, dated 04.07.2008 is hereby set aside and a direction is issued to the respondents to approve the appointment of the writ petitioner within a period of eight weeks with effect from 01.06.2018. The Writ Petition stands allowed with the said observations. No Costs. Consequently, connected miscellaneous petition is closed."

4. The learned Special Government Pleader appearing for the respondents would submit that so far no proposal has been received by the second respondent. That apart, G.O.Ms.No.144, School Education (DI) Department, dated 04.07.2008 is an impediment for granting approval of the appointment of the said A.L.Abdul Rahim.

5. However, the said Government order in G.O.Ms.No.144, School Education (DI) Department, dated 04.07.2008 cannot be a basis to deny approval unless Tamilnadu Recognised Private Schools (Regulation) Act, 1974 is amended and notified in gazatte.



W.P.No.5048 of 2024

Therefore, the said Government Order was quashed.

WEB COPY

6. In view of the above, the petitioner is directed to submit fresh proposal for approval of the appointment of the said A.L.Abdul Rahim in the post of B.T.Assistant(English) with effect from 01.06.2018 and on receipt of the same, the second respondent is directed to consider and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

7. With the above directions, this writ petition is disposed of. There shall be no order as to costs.

05.03.2024

Neutral citation:Yes/No

Index : Yes/No

Internet: Yes/No

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W.P.No.5048 of 2024

WEB COPY

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Coimbatore
- 2.The District Educational Officer,
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WEB COPY



W.P.No.5048 of 2024

G.K.ILANTHIRAIYAN, J.

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W.P.No.5048 of 2024

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