



W.P.No.7707 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2024

CORAM:

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

W.P.No.7707 of 2022
and W.M.P.Nos.7719 & 7720 of 2022

T.Vijaya Prathip,
S/o.T.Chandrasekar Rao,
B.T.Assistant (English),
A.B.T.M.Middle School,
Nazarethpuram,
St.Thomas Mount,
Chennai – 600 016.

...Petitioner

-Vs-

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.
3. The District Educational Officer,
St. Thomas Mount Education District,
Chrompet, Chennai – 600 044,
Chengalpattu District,
Egmore, Chennai – 600 008.



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4. The Block Educational Officer,
St. Thomas Mount Block,
Chitlapakkam, Chennai – 600 064
Chengalpattu District.

5. The Correspondent,
A.B.T.M.Middle School,
Nazarethpuram,
St.Thomas Mount,
Chennai – 600 016.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating the impugned proceedings issued by the third respondent in Na.Ka.No.3046/A4/2022 dated 04.03.2022 and to quash the same and consequently directing the respondents to pass orders for granting approval of appointment of the petitioner in sanctioned post of B.T. Assistant (English) in the fifth respondent school with effect from 08.01.2021 including the arrears of salary, within a time frame to be fixed by this Court.

For Petitioner	: Mr.G.Sankaran, Senior Counsel For Mr.G.R.Ramesh Prabbhu
For Respondents	
For R1 to R3	: Mr.S.Silambanan Additional Advocate General Assisted by Mr.S.Arumugam, Government Advocate.



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ORDER

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The writ petition has been filed challenging the order dated 04.03.2022, passed by the third respondent, thereby rejecting the proposal sent by the fifth respondent school for approval to the appointment of the petitioner as B.T. Assistant (English) in the fifth respondent school.

2. The fifth respondent school is a Telugu Linguistic Minority Institution, running under the Management of St. Thomas Mount Telugu Baptist Church Trust and it remains to be a government aided school governing under the provisions of Tamil Nadu Recognized Private Schools (Regulations) Act, 1973 and Rules 1974 made thereunder. The fifth respondent school has a vacancy to the post of Secondary Grade Teacher, subsequently upgraded as B.T. Assistant Post, arose due to retirement of incumbent one T.Santhakumari on 01.01.2021, on voluntary retirement scheme. In the resultant vacancy, the petitioner was selected and appointed in the upgraded post of B.T.Assistant (English) by the fifth respondent school as per the appointment order dated 08.01.2021.



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3. Thereafter, the fifth respondent has forwarded a proposal to the third respondent dated 10.02.2021 for approval of appointment of the petitioner to the post of B.T. Assistant (English). However, the fourth respondent by his proceedings dated 21.04.2021, informed that as per the interim orders dated 09.04.2019, in W.A.No.76 of 2019 etc., batch cases, no teaching post can be filled up as per G.O.Ms.No.165, School Education Department dated 17.09.2019.

4. Thereafter, the fifth respondent school once again resubmitted the proposal on 27.08.2021 stating that the fifth respondent school is a linguistic minority institution and the Secondary Grade Assistant post has been subsequently upgraded as B.T. Assistant Post arose due to the retirement of one T.Santhakumari on 01.01.02021 on VRS. Thereafter, the fourth respondent forwarded the said proposal to the third respondent. However, the third respondent rejected the approval to the appointment of the petitioner by an order dated 04.03.2022, on the ground that the interim order passed by the Hon'ble Division Bench of this Court dated 09.04.2019, no teaching post can be filled up as per G.O.Ms.No.165, School Education Department dated 17.09.2019.



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WEB COPY 5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of the counter affidavit revealed that when there is surplus posts available in the cadre of B.T. Assistant (English), no direct recruitment should be made. Further only teacher with “Teachers Eligibility Test (TET)” qualification alone has to be appointed as Secondary Grade or B.T. Assistants and any exemption from TET is not applicable to them. Further, the petitioner has not possessed TET qualification.

7. On perusal of records revealed that in pursuant to the interim order dated 09.04.2019, passed by the Division Bench of this Court in W.A.(MD).No.76 of 2018 etc., batch, the government passed order in G.O.Ms.No.165, School Education Department dated 17.09.2019, with regard to staff fixation. However, it was challenged and the said government order was suspended by the Hon'ble Division Bench of this Court by an order dated 20.09.2019 and the G.O.Ms.No.165, was



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declared to be inoperative and the authorities have to approve the appointment of the petitioner.

8. That apart, the Hon'ble Division Bench of the Court by an order dated 31.03.2021 in the batch of writ appeals in W.A.(MD).No.76 of 2018 etc., held that, insofar as the minority institutions are concerned, if it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength for the academic year 2021-22 shall not be affected because of the identified excess teachers in other schools. At the same time, even if the school is a minority institution, however being administered by a joint management or corporate management, in respect of those schools, even though vacancy arose within the sanctioned strength of such school or schools under corporate management or joint management, those vacancies shall not be filled up unless the excess staff identified in all other schools under the same corporate or joint management are exhausted fully and only after exhausting the redeployment process on all excess teachers identified in the group of schools under the same corporate management, they shall be free to make appointment afresh from open market in the vacancy if any



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still, within the sanctioned strength. Therefore, the reasons stated by the fourth respondent while rejecting the proposal sent for approval to the appointment of the petitioner cannot be sustained and it is liable to be set aside.

9. In view of the above discussions, the impugned order dated 04.03.2022 in Na.Ka.No.3046/A4/2022, on the file of the third respondent is hereby set aside and the third respondent is directed to approve the appointment of the petitioner in the post of B.T. Assistant (English) with effect from 08.01.2021, with all monetary and service benefits, within a period of eight weeks from the date of receipt of a copy of this Order.

10. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
rts



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G.K.ILANTHIRAIYAN. J.

rts

To

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