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W.P.Nos.10163, 10168, 10171 and 10173 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

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

W.P.Nos.10163, 10168, 10171 and 10173 of 2022

and

W.M.P.Nos.9852, 9855, 9862, 9863, 9867, 9868, 9870
and 9872 of 2022

KhairJaree Aided Middle School,
represented by its Correspondent,
M.Abdul Jameel,
No.493, (New) Old No.167,
Anna Road,
Melvisharam 632 509

... Petitioner **in all W.Ps**

-Vs-

1. The Director of Elementary Education,
DPI Campus,
College Road,
Chennai 600 006.

2. The District Educational Officer,
Ranipet,
Ranipet District.

3. Block Educational Officer,
Arcot Block Mupuduvetti,
Ranipet District.

... Respondents **in all W.Ps**



W.P.Nos.10163, 10168, 10171 and 10173 of 2022

Prayer in W.P.No.10163 of 2022: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent Aa.Thi.Mu 118/A3/2022 dated 07.02.2022 consequently direct the respondents to grant approval for appointment of Thiru C.S.Nazeer Ahmed as Secondary Grade Teacher with effect from 12.10.2020 with all service and monetary benefits.

Prayer in W.P.No.10168 of 2022: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent Aa.Thi.Mu 119/A3/2022 dated 07.02.2022 consequently direct the respondents to grant approval for appointment of Thirumati Y.KouserSiddiqua as Secondary Grade Teacher with effect from 05.02.2021 with all service and monetary benefits.

Prayer in W.P.No.10171 of 2022: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent Aa.Thi.Mu.120/A3/2022 dated 07.02.2022 consequently direct the respondents to grant approval for appointment of Mohammed Nazrullah as Secondary Grade Teacher with effect from 02.07.2018 with all service and monetary benefits.

Prayer in W.P.No.10173 of 2022: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent



W.P.Nos.10163, 10168, 10171 and 10173 of 2022

Aa.Thi.Mu.117/A3/2022 dated 07.02.2022 consequently direct the respondents to grant approval for appointment of Abdullah Basha as Secondary Grade Teacher with effect from 03.06.2020 with all service and monetary benefits.

In all W.Ps

For Petitioners : M/s Dakshayani Reddy
Senior Counsel
for M/s Suneetha

For R1 to R3 : Mr.S.Arumugam
Government Advocate

COMMON ORDER

These Writ Petitions have been filed challenging the order passed by the third respondent, thereby rejected the proposal for approval of appointment of Teachers.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner school is a Minority Aided School and caters to about 350 students from the classes 1 to 8. It was established in the year 1914 and caters to the socially and economically backward classes of the



W.P.Nos.10163, 10168, 10171 and 10173 of 2022

minority community. The petitioner school is assessed to grant based upon the students strength and the sanction of the number of teachers that the school is entitled to year after year. As per the fixation of staff strength, the petitioner school is sanctioned with five posts of secondary grade teachers, one post of regional language teacher and one post of elementary school Headmaster, for the year 2017-2018. The same staff strength is extended till 2018-2020.

4. While being so, the incumbent secondary grade teacher one Azeez Ahmed had expired on 07.10.2020 and one Nazeer Ahmed was appointed as secondary grade teacher. Likewise, one A.Mohammed Anwer had expired on 05.02.2021 and one Y.Kouser Siddiqua was appointed, One P.Mohamed Ishaque retired and one Mohammed Nasrullah was appointed as secondary grade teacher and One A.M.Ghouse Basha retired and one A.G.Abdullah Basha was appointed as secondary grade teacher. The proposals for approval of appointments were sent to the third respondent, on 25.01.2022. All the proposals sent by the petitioner school were rejected, on the ground that



W.P.Nos.10163, 10168, 10171 and 10173 of 2022

G.O.Ms.No.165 dated 17.09.2019 placed an embargo on appointment of fresh teachers when there are surplus teachers available elsewhere.

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5. The learned senior counsel appearing for the petitioner submitted that G.O.Ms.No.165 dated 17.09.2019 was under challenge before this Court. The Hon'ble Division Bench of this Court in W.A.(MD).No.76 of 2019 dated 31.03.2021 set aside the said Government Order and declared as inoperative. Though the respondents filed appeals before the Hon'ble Division Bench of this Court, it is pending with an interim order. The Hon'ble Supreme Court of India stayed the portion of the order which is not connected with the petitioner school to appoint the teachers in the sanctioned vacancy. Further, the said Government Order itself was passed in view of the interim directions issued by this Court. Therefore, similarly placed schools were directed to submit a fresh proposal for approval of its teachers in the sanctioned vacancy.



W.P.Nos.10163, 10168, 10171 and 10173 of 2022

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6. A perusal of the counter also revealed the same. Admittedly, the petitioner school is eligible to fill the post as per the strength and the staff fixation. However, the post should be filled up from the list of surplus teachers maintained at the district level instead of making fresh appointment. As far as the petitioner school is concerned, it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength or the Academic Year shall not be affected because of the identified excess teachers in other schools.

7. In view of the above, the impugned orders in all the writ petitions cannot be sustained and are liable to be quashed. Accordingly, the impugned orders in Aa.Thi.Mu 118/A3/2022 dated 07.02.2022, in Aa.Thi.Mu 119/A3/2022 dated 07.02.2022, in Aa.Thi.Mu.120/A3/2022 dated 07.02.2022 and in Aa.Thi.Mu.117/A3/2022 dated 07.02.2022 are hereby quashed. The petitioner is directed to send a fresh proposal to the second respondent for approval of appointment of C.S.Nazeer Ahmed, Y.KouserSiddiqua, Mohammed Nazrullah and Abdullah Basha, forthwith. On receipt of the same, the second respondent is directed to



W.P.Nos.10163, 10168, 10171 and 10173 of 2022

consider the same for approval and pass orders to approve their appointment in their respective posts from the date of their appointment, if otherwise they fulfill the eligible conditions, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the approval of the above said persons are subject to the result of appeal pending before the Hon'ble Supreme Court of India in S.L.P.(C).No.15702 of 2021 challenging the order dated 31.03.2021 passed in W.A.(MD).No.76 of 2019 dated 31.03.2021.

9. In the result, these writ petitions are allowed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

29.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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W.P.Nos.10163, 10168, 10171 and 10173 of 2022

G.K.ILANTHIRAIYAN. J.

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To

1. The Director of Elementary Education,
DPI Campus,
College Road,
Chennai 600 006.
2. The District Educational Officer,
Ranipet,
Ranipet District.
3. Block Educational Officer,
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W.P.Nos.10163, 10168, 10171 and 10173 of 2022

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