



WEB COPY



W.P.No.9999 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9999 of 2024
and W.M.P.Nos.11008 and 11009 of 2024

Sr.M.Nithiya

.. Petitioner

Versus

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
The Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
Moovendar Nagar,
Villupuram District - 605 602.
4. The District Educational Officer (Secondary),
The Office of the District Educational Officer,
Murungapakkam - 604 001,
Tindivanam,
Villupuram District.
5. The Correspondent,
St. Philomena's Girls Higher Secondary School,
Tindivanam, Marakkanam Road,



W.P.No.9999 of 2024

Villupuram District - 604 001.

.. Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order, dated 13.02.2024 in Na.Ka.No.344/A4/2024 on the file of the 3rd respondent and the consequential proceedings, dated 29.02.2024 in O.Mu.No.4771/AA2/2024 on the file of the 4th respondent and quash the same, directing the respondents 1 to 4, to accord approval to the appointment of the petitioner, Sr.M.Nithiya, working as B.T. Assist (Maths) in the 5th respondent St.Philomena's Girls Higher Secondary School, Tindivanam, Marakkanam Road, Villupuram district - 604 001, w.e.f. 01.10.2020, with all service and monetary benefits.

For Petitioner : Dr.Fr.A.Xavier Arul Raj,
Senior Counsel,
for Father Xavier Associates

For Respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader,
RR-1 to 4

ORDER

The learned Senior Counsel for the petitioner would rely upon the order of this Court in W.P.No.2115 of 2013, which is also followed in W.P.No.4021 of 2023. The relevant portion is extracted hereunder for ready reference:-



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" 6. This Court had an occasion to deal with the very similar issue in W.P.No.2115 of 2013 and the following order was passed by this Court.

8. It is not necessary for this Court to go into the merits of the case, since the entire issue is focused on the applicability of G.O.Ms.No.165, dated 17.09.2019. The Division Bench of this Court in W.A.(MD) Nos.76 etc., of 2019 has considered the issue in detail and final orders have been passed on 31.03.2021. A series of directions have been issued by the Division Bench. The Division Bench has declared that the G.O.Ms.No.165, dated 17.09.2019 is declared to be inoperative. In view of the same, the very basis on which the impugned order has been passed by the 4 th respondent on 27.09.2022, becomes unsustainable.

9. In the light of the above discussion, the impugned proceedings of the 4 th respondent dated 27.09.2022, is hereby quashed. There shall be a direction to the 4 th respondent to consider the request made by the petitioner School for approving the appointment of the B.T. Assistant. If any Special Leave Petition is pending in this regard, such approval can be granted subject to the result of the Special Leave Petitions before the Apex Court. This exercise shall be completed by the 4 th respondent, within a period of four weeks from the date of receipt of copy of this order.

7. This writ petition can also be disposed of in the above terms. Hence, the impugned proceedings of the 4 th respondent dated 24.12.2020, is hereby quashed. There shall be a direction to the petitioner to make a fresh representation to the 4 th respondent along with all the relevant documents and also a copy of this order. The 4 th respondent is directed to grant approval for the appointment and it can be made subject to the result of the Special Leave Petitions, pending before the Apex Court. This process shall be completed by the 4 th respondent, within a period of four weeks from the date of receipt of the fresh representation from the petitioner."



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2. Upon query of this Court, the learned Special Government Pleader is not in a position to distinguish the facts of the said case with that of the present case. She would only submit that Special Leave Petition is pending as against the said order. Since there is no interim order granted by the Hon'ble Supreme Court of India, the Writ Petition has to be ordered on the same terms.

3. In view thereof, the present Writ Petition is also allowed on the same terms. No costs. It is made clear that the respondents shall pass necessary orders and also release the benefits within a period of eight(8) weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

12.04.2024

Index : yes
Speaking order
Neutral Citation : no
grs

To

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
The Department of School Education,



W.P.No.9999 of 2024

Fort St. George, Chennai - 600 009.

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2. The Director of School Education,
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College Road,
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3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
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Tindivanam,
Villupuram District - 605 602.
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The Office of the District Educational Officer,
Murungapakkam - 604 001,
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D.BHARATHA CHAKRAVARTHY, J.

grs

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and W.M.P.No.11008 and 11009 of 2024

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