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W.P.Nos.10159 of 2020 & batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.01.2024
CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.10159 of 2020 & 12997 & 13398 of 2021
and W.M.P.No.12357 of 2020

W.P.No.10159/2020

R.Stanlin

/vs/

Petitioner

1. The Director of School Education,
Puducherry.

2. The Rev.Fr.Secretary,
Arch Diocesan Board of Education,
Puducherry.

3. The Principal / Headmaster,
Fatima Higher Secondary School,
Puducherry – 8.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to consider the proposal submitted by the second respondent in Ref:3470/11/FGABHS dated 15.04.2011 for approval of the petitioner's appointment as Physical Education Teacher in the place of Mr.A.Rajaraman who retired as Physical Education Teacher on 31.10.2009.



W.P.Nos.10159 of 2020 & batch

W.P.No.12997/2021

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S.Jecintha

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Petitioner

/vs/

1. The Director of School Education,
Puducherry.

2. The Principal / Headmaster,
St.Louis De Gonzague Government,
Aided High School, Puducherry – 605 001.

3. The Principal / Headmaster,
St.Francis Assissi Government Aided High School,
Kurusukuppam,
Puducherry.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to grant approval for petitioner's appointment as Trained Graduate Teacher in the second respondent school with effect from 21.07.2006 and as Primary School Teacher in the third respondent school with effect from 04.06.2019 and grant all consequential benefits.



W.P.Nos.10159 of 2020 & batch

W.P.No.13398/2021

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A.Queen Ben Antoinettee

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Petitioner

/vs/

1. The Director of School Education,
Puducherry.

2. The Rev.Fr.Secretary,
Arch Diocesan Board of Education,
Puducherry.

3. The Principal / Headmaster,
Fatima Government Aided Boys High School,
Muthialpet, Puducherry – 3.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to grant approval of petitioner's appointment as Primary School Teacher in the third respondent school with effect from the date of her appointment i.e. 01.09.2008 and grant her all consequential benefits.

For Petitioner ... Mr.P.Rajendran

(in all W.P's.)

For Respondents ... Mr.R.Syed Mustafa
(in all W.P's.) Special Govt. Pleader (Puducherry)
for R1



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Ms.Arulmary
for M/s.Father Xaview Associates
for R2 & R3

COMMON ORDER

The petitioners are found to be appointed as Physical Education cum Computer Assistant, Trained Graduate Teacher and Primary School Teacher, respectively, at the third respondent Schools. Their appointments have been sent for getting the approval of the first respondent but so far, the approval has not been given. Aggrieved over that the petitioners have filed these writ petitions.

2. It is learnt that during the pendency of these Writ Petitions, the proposal seeking approval have been returned on 31.03.2023 vide Circular No.3003/DSE-GIAS/U5/2022.

3. The core contention of the respondents is that the approval cannot be given along with grant-in-aid to the appointments made by the third respondent schools unless they comply with the Pondicherry School Education Rules. As per the said Rules, the third respondent school has to



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frame recruitment rules and get the approval of the Government. So far the third respondent school has not framed any recruitment rules and got the approval of the Government. It is further submitted that the writ appeals in W.A.No.2842 of 2018 & batch, have already been filed challenging the Puducherry School Education Act,1987 read with Rules and the proceedings are pending before the Division Bench of this Court.

4. However, it is claimed by the learned counsel for the petitioner and third respondent that since the third respondent is the minority school, the first respondent cannot enforce any modes of recruitment and it is the autonomy of the third respondent to choose any fair mode of recruitment and hence withholding of approval is not fair and proper. It is further submitted that approvals have been given on 11.09.2020 for the appointment of 8 teachers who have also been appointed in the same manner in which the petitioner has been appointed and that the recruitment rules framed by the Committee has been sent to the Government and the Government has not approved the rules so far.



5. The proposals sent by the third respondent schools for appointing the petitioner have been returned by stating that there is an interim stay order granted by staying the statutory powers of the Director of School Education under Puducherry School Education Act and Rules made thereunder and hence the proposals cannot be considered for approval. It is further submitted that the petitioners were appointed on consolidated wage basis without any prior approval. So far as the submission with regard to approval of recruitment rules framed by the third respondent school is concerned, the same is still pending with the Government.

6. Since the third respondent is an aided minority institution, the third respondent has got right under Article 30(1) of the Constitution of India to design a fair recruitment process and make appointments.

7. Despite the appointments were made in the year 2011, the first respondent has not considered the same for several years. The alleged order of stay has been granted on 03.07.2008. However the respondents seem to have given approvals for several appointments consequent to the



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stay order. When such is a case, I do not find any reason to adopt a different parameter for considering the proposals involved in these cases.

The impact on the grant of approval in respect of appointments involved in these writ petitions will be the same as that of the other appointments for which approval has been given during the pending writ appeal. Hence, I feel it is appropriate for the first respondent to consider the proposals for approving the appointments of the petitioners.

8. Accordingly, these writ petitions are disposed with a direction to the first respondent to consider the proposals sent by the second respondent for approving the appointments of the petitioners in the light of the earlier approval given in the case of the other appointments. It is needless to state that all approvals will be subject to the outcome of pending W.A.No.2842 of 2018 batch. No costs. Connected miscellaneous petition is closed.

10.01.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation: Yes / No
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R.N.MANJULA ,J.

bkn

To:

The Director of School Education,
Puducherry.

W.P. Nos.10159 of 2020 & 12997 & 13398 of 2021

10.01.2024