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W.P.No.12321 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.12807, 12810 and 12811 of 2021

P.Angel	... Petitioner in W.P.No.12807 of 2021
Esther Gnanaselvi	... Petitioner in W.P.No.12810 of 2021
T.Mabel Rosesty	... Petitioner in W.P.No.12811 of 2021

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St. George, Chennai - 600 001.
2. The Director of Elementary Education,
College Road, Chennai - 600 006.
3. The District Educational Officer,
Valliyoor and Post Tirunelveli District.
4. The Block Educational Officer,
Naguneri, Tirunelveli District.
5. The CMS Evangelical Church Society,
Rep. by its Secretary
R.Paul George,
Idaiyankulam,
Omanallur, Omanallur Post,
Palayamkottai Taluk,
Tirunelveli District.

... Respondent in all W.Ps.



W.P.No.12321 of 2021

Prayer in W.P.No.12807 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd Respondent to appoint the petitioner as Secondary Grade Teacher in C.M.S. Primary School, Senthankulam temporarily in the vacant Secondary Grade Post forthwith and further direct the 5th Respondent management to make permanent appointment of the Petitioner on settlement to disputes in the management of CMS Evangelical Society.

Prayer in W.P.No.12810 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd Respondent to appoint the petitioner as B.T. Assistant Science in C.M.S. Middle School, Paruthipadu temporarily in the vacant B.T. Assistant Post forthwith and further direct the 5th Respondent management to make permanent appointment of the Petitioner on settlement to disputes in the management of CMS Evangelical Society.

Prayer in W.P.No.12811 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd Respondent to appoint the petitioner as B.T. Assistant Science in C.M.S. Middle School, Maruthakulam temporarily in the vacant B.T. Assistant Post forthwith and further direct the 5th Respondent management to make permanent appointment of the Petitioner on settlement to disputes in the management of CMS Evangelical Society.



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For Petitioners in all W.Ps. : Mr.P.Ebenezer Paul

For Respondents in all W.Ps.
For R1 to R4

: Mr.Yogesh kannadasan,
Special Government Pleader

For R5

: Mr.V.Sivalingam for
M/s.C.S.Associates

COMMON ORDER

The petitioners have been appointed in the 5th respondent Management as under:

<i>S.No.</i>	<i>Name of the petitioner</i>	<i>Post of appointment</i>	<i>Date of appointment</i>
1	P.Angel	Secondary Grade Teacher	11.12.2006
2	Esther Gnanaselvi	B.T.Assistant	03.01.2007
3	T.Mabel Rosesty	B.T.Assistant	03.09.2007

Though the appointment of the petitioners were approved initially and they were working their respective schools, due to a dispute with regard to Management between the two groups of the 5th Respondent Society, the approval has been cancelled on 29.07.2008.

2. Mr.P.Ebenezer Paul, learned counsel for the petitioners submitted



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that the proposals for appointment were sent to the Government and the Government has also approved the same; however, there is some dispute between the two parties with regard to the Management of the School. One party has challenged the order of approval of the petitioner's appointment before the Court by way of filing W.P.(MD).No.2652 of 2006 and obtained favourable orders; subsequently, the appointment of the petitioners were cancelled by the 2nd respondent on 29.07.2008; the 2nd respondent has passed an order for disbursement of salaries to the teachers working in various Schools of the 5th Respondent Society through respondents 3 and 4; thereafter the petitioners have given representation to the 3rd respondent and the same is still pending.

3. Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the Respondents 1 to 4 submitted that the approval for appointment of the teachers can be made only to sanctioned posts available and the same has been communicated by the 3rd respondent on 22.04.2021; even as against the sanctioned posts, only the 2nd respondent can approve the appointment.



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4. Since the dispute is between the two contesting group of the Management over the 5th Respondent, no direction can be given to the respondents 1 to 4 to consider the case of the petitioners. Though the petitioners have suffered two orders at the hands of the 2nd respondent, they have not chosen to challenge the same.

5. The learned counsel for the petitioners attracted the attention of this Court to G.O.Ms.No.881, Education Department, dated 04.06.1979 which authorized the appointment of the teachers on temporary basis in vacant places.

6. In fact, the petitioners have challenged the cancellation of appointment dated 29.07.2008 by way of filing Writ Petition in W.P.(MD).No.11495 of 2008 and the same was dismissed as infructuous. In view of the same, the issue had attained finality. Since the petitioners have taken recourse in view of G.O.Ms.No.881, Education Department, dated 04.06.1979 and given representation for appointment on temporary



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basis, the respondents 2 and 3 are directed to consider the representation made by the petitioners dated 16.04.2021 and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petitions are disposed of. No costs.

08.01.2024

Index: Yes / No
Speaking order / Non-speaking order
vum

To:

1. The Secretary,
School Education Department,
Fort St. George, Chennai - 600 001.
2. The Director of Elementary Education,
College Road, Chennai - 600 006.
3. The District Educational Officer,
Valliyoore and Post Tirunelveli District.
4. The Block Educational Officer,
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