



W.P.No.15134 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Writ Petition No.15134 of 2020
and W.M.P.Nos.18888 of 2020 & 34218 of 2022

Aided Elementary School,
Thanikalampattu,
Kadaganur Post 605 755,
Villupuram District
Rep. by its Manager,
P.Martin Mathivanan

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Petitioner

-Vs-

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

2. The Chief Educational Officer,
Villupuram District,
Villupuram.

3. The District Educational Officer,
Thirukovilur Education District,
Villupuram District.

4. The Block Educational Officer,
Mugaiyur Block,
Villupuram District.

5. M.Brindha

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Respondents



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Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings issued by the third respondent in Na.Ka.No.547/A4/2020 dated 14.09.2020 and to quash the same and consequently direct the respondents to approve the appointment of Tmt.M.Saraswathi in the post of Secondary Grade Teacher in the petitioner school with effect from 28.08.2020 based on the proposal forwarded by the petitioner school dated 31.08.2020 with all consequential and attendant benefits.

For Petitioner : S.Nedunchezhiyan
For Respondents-1 to 4 : Mr.P.Gurunathan
Additional Govt. Pleader

ORDER

Heard Mr.S.Nedunchezhiyan, the learned Counsel for the petitioner and Mr.P.Gurunathan, the learned Additional Government Pleader for R1 to R4.

2. The petitioner has filed this writ petition challenging the proceedings of the third respondent in Na.Ka.No.547/A4/2020 dated



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14.09.2020 and to consequently direct the respondents to approve the appointment of one M.Saraswathi in the post of Secondary Grade Teacher in the petitioner school with effect from 28.08.2020 based on the proposal forwarded by the petitioner school dated 31.08.2020 with all consequential and attendant benefits.

3. The petitioner school is a Government aided school governed under the provisions of Tamil Nadu Recognized Private Schools (Regulations) Act, 1973 and Rules 1974. A vacancy to the post of Secondary Grade Teacher arose due to the promotion of incumbent one T.Alamelu as Head Master on 21.02.2019 and consequently one Sarawathi has been appointed as Secondary Grade Teacher. After appointing the said Sarawathi, the appointment proposal has been forwarded to the third respondent for granting approval. But the same was rejected by virtue of the proceedings of the third respondent dated 14.09.2020.

4. Earlier the petitioner has filed a writ petition in W.P.No.18/2020 by seeking appropriate direction to grant approval to the said



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appointment. In the said petition the following order has been passed on

03.01.2020:

“ 8. In view of the above discussion, the impugned proceedings of the third respondent dated 24.09.2019 and the consequent order issued by the fourth respondent dated 29.10.2019 is hereby quashed. The petitioner School is directed to make a fresh representation to the third respondent and seek for permission to fill up the post of Secondary Grade Teacher and the third respondent after ensuring that there are no surplus teachers to be deployed in the petitioner school, shall sanciton the appointment and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order.”

5. However, the third respondent has passed an order stating that fresh appointments cannot be made in view of G.O.Ms.165 dated 17.09.2019. It is further observed in the order that there is already an excess teacher by name Brindha, the third respondent herein and she is deployed to some other school.

6. The legal position in respect of G.O.Ms.165 dated 17.09.2019 has been dealt in various orders of this Court and it is held that so far as the appointments made against the sanctioned posts for private aided schools, the Government Order in G.O.Ms.165 dated 17.09.2019 has got



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no application. It is not in dispute that the post for which the said Saraswathi has been appointed is a sanctioned post. There is no question of prior permission since G.O.Ms.165 dated 17.09.2019 is inoperative by virtue of the judgment of the Division Bench rendered in W.A.(MD) No.76 of 2019 & batch and the same has been followed in various other orders of this Court including the orders passed in similar such cases involved in W.P.No.1307 & 18248 of 2021, W.P.No.4021/2023 and W.P.No.16698/2012.

7. Since the issue involved in this case is as similar as that of the issue that has arisen in the above dealt cases where direction has been given to the respondents to consider the proposal of the petitioner and grant approval, this writ petition should also be allowed in similar line.

8. Accordingly, this writ petition is allowed and the proceedings issued by the third respondent in Na.Ka.No.547/A4/2020 dated 14.09.2020 is hereby quashed and the third respondent is directed to approve the appointment of M.Saraswathi in the post of Secondary Grade Teacher in the petitioner school with effect from 28.08.2020, with all



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consequential and attendant benefits, within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
bkn



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WEB COPY To

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R.N.MANJULA, J.,
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