



W.P.No.18958 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2024

CORAM:

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

W.P.No.18958 of 2022 and
WMP.Nos.18291 & 18293 of 2022

1.Rameeza Oriental Arabic Girls High School

Represented by its Correspondent

P.M.Abdul Jameel,

Pernambut,

Vellore District

2.V.M.Safiama

... Petitioners

Vs.

1.The Commissioner,

School Education,

DPI Campus,

Chennai 600 009

2.The Chief Educational Officer,

Vellore District

3.The District Educational Officer,

Vellore

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the first respondent in Moo.Moo No.58059/T1/E1/2020 dated 11.02.2021 and quash the same so far as it prescribes the grant of permission for conversion (09.12.2020) from BT Assistant Science to BT Assistant Mathematics for the purpose of filling up of the post of BT Assistant mathematics and the consequential order of the third



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respondent rejecting the proposal to grant approval to the second petitioner for the post of BT Assistant mathematics and quash the same, accordingly direct the respondents to grant approval for appointment of the second petitioner in the post of BT Assistant Mathematics with effect from 05.12.2011 by converting the post of BT Assistant Science to BT Assistant Mathematics from the said date with all services and mandatory benefits.

For Petitioners : Mr.S.N.Ravichandran

For Respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated 22.12.2021 thereby rejected the proposal sent by the first respondent for approval of the second petitioner's appointment in the post of BT.Assistant Maths with effect from 05.12.2011.

2. The first petitioner is an aided minority institution. It is assessed to grant year after year from 2011-2012, the first petitioner school was sanctioned with one Headmaster, one B.T.Assistant and 5 Secondary Grade Teachers for the year 2012-2013, 2014-2015, 2015-



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2016, 2016-2017, 2017-2018, 2018-2019. The same staff fixation was continued. In the year 2019-2020, due to increase in the strength of the students, the respondents fixed necessary staff strength required as 9 BT Assistant as against the sanctioned post of 5 Secondary Grade Teachers and one B.T.Assistant. While being so, the post of Headmaster fell vacant in the first petitioner school with effect from 31.05.2011 due to retirement of the incumbent Sarvathunissa who was teaching Maths. In the said vacancy, the teacher who was working as B.T.Assistant (Science) was promoted to the post of Headmaster. There was no qualified Maths teacher to teach 9th and 10th standards. Considering the welfare of the students, the second petitioner was appointed as B.T.Assistant (Maths) with effect from 05.12.2011. Immediately, the first respondent had forwarded a proposal for change of subject roster from Science to Maths and also seeking approval of her appointment. However, it was rejected on the ground that as per G.O.Ms.No.165 dated 17.09.2019, no teachers to be appointed without fulfilling the surplus teachers.

3. In view of the interim order passed in a batch of writ appeals



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in WA.(MD).No.76 of 2019, etc. batch, the Government had passed GO.Ms.No.165 dated 17.09.2019. However, the Hon'ble Division Bench of this Court passed final order in the above writ appeals declaring that the said GO.Ms.No.165 School Education Department dated 17.09.2019 is inoperative and unenforceable. That apart, the second petitioner was appointed even before the issuance of the said Government order. Insofar as the conversion of B.T.Assistant (Maths) from B.T.Assistant(Science), it was also duly approved by the authority concerned by its proceedings dated 11.02.2021. It is also relevant to extract the judgment of this Court in a batch of writ petitions in WP.No.3194 of 2020, etc. batch hereunder:

8. According to the learned Additional Advocate General, the State Government has preferred an appeal before the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 15702 of 2021 as against the judgment passed by the Division Bench of this Court in the Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc. and obtained stay insofar as Clause (i) of paragraph 95 of the said judgment. Except the aforesaid clause (i) of paragraph 95, there was no stay in respect of remaining portion of the judgment. It is agreed by the learned



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Additional Advocate General that the writ petitioners were appointed prior to the G.O.Ms.No.165 dated 17.9.2019 and therefore, it can be considered and an appropriate order may be passed.

9. On perusal of the judgment of the Division Bench of this Court in the aforesaid Batch of cases and also the G.O.Ms.No.165 issued by the School Education Department, dated 17.9.2019, both the judgment as well as G.O.Ms.No.165 are prospective in nature. The appointments made by the School Management in the instant writ petitions are prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and proposals for the said appointment were also forwarded to the educational authorities prior to the issuance of [G.O.Ms.No. 165](#) dated 17.9.2019. Therefore, there is no legal impediments for the respondents to accord approval to the appointment made by the School Management in the instant writ petitions.

10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc., G.O.Ms.No.165 issued by the School Education department, dated 17.9.2019 will not prohibit the educational authorities to approve



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the appointment made by the School Management in the instant writ petitions since the proposals for approval of appointment made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.9.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed.

4. In view of the above, the impugned order cannot be sustained and the same is liable to be quashed. Accordingly, the impugned order dated 22.12.2021 is quashed. The second respondent is directed to approve the appointment of the second petitioner in the post of B.T.Assistant(Maths) with effect from 05.12.2011 with all service and monetary benefits within a period of four weeks from the date of receipt of copy of this order.

5. With the above direction, this writ petition is allowed.



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Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

- 1.The Commissioner,
School Education,
DPI Campus,
Chennai 600 009
- 2.The Chief Educational Officer,
Vellore District
- 3.The District Educational Officer,
Vellore



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