



Writ Petition Nos.21250,21254 and 21258 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition Nos.21250, 21254 and 21258 of 2024
and WMP Nos.23205, 23206, 23215, 23216, 23221 and 23222 of 2024

R.Priyadharshni	.. Petitioner in WP No.21250 of 2024
B.Kurinjimalaron	.. Petitioner in WP No.21254 of 2024
D.Ancy Praveena	.. Petitioner in WP No.21258 of 2023

Vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai 600 006
2. The Chief Educational Officer,
Kallakurichi District, Kallakurichi
3. The District Educational Officer (Elementary),
Kallakurichi District,
Kallakurichi
4. The Block Educational Officer,
Chinnasalem,
Kallakurichi District.
5. The Correspondent,
Danish Mission Primary School,
Alathi, Kalvarayan Hills,
Kallakurichi District – 606 207

.. Respondents
in all WPs



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PRAYER IN WP No.21250 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to Call for the records relating to the proceedings issued by the 3rd respondent in proceeding Na.Ka. No.518/A2/ 2022 dated 08.07.2024 and to quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of Secondary Grade Teacher in the 5th respondent school from the date of appointment on 16.11.2016 with all consequential and attendant benefits including the payment of salary from the date of appointment along with interest within a time frame to be fixed by this Court.

PRAYER IN WP No.21254 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to Call for the records relating to the proceedings issued by the 3rd respondent in proceeding Na.Ka. No.517/A2/ 2022 dated 08.07.2024 and to quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of Secondary Grade Teacher in the 5th respondent school from the date of appointment on 13.12.2018 with all consequential and attendant benefits including the



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payment of salary from the date of appointment along with interest within a time frame to be fixed by this Court.

PRAYER IN WP No.21258 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to Call for the records relating to the proceedings issued by the 3rd respondent in proceeding Na.Ka. No.519/A2/ 2022 dated 08.07.2024 and to quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of Secondary Grade Teacher in the 5th respondent school from the date of appointment on 17.04.2017 with all consequential and attendant benefits including the payment of salary from the date of appointment along with interest within a time frame to be fixed by this Court.

In all WPs

For Petitioner : Mr.T.Dharani

For Respondents : Mr.K.H.Ravikumar
Government Advocate
for R1 to R4

ORDER

These writ petitions have been filed challenging the impugned proceedings of the 3rd respondent dated 08.07.2024 and for a consequential



direction to the respondents to approve the appointment of the petitioners in the post of secondary grade teacher in the 5th respondent school from the date of their appointment on 16.11.2016 with all consequential and attendant benefits.

2. The 5th respondent school is an aided minority school. The petitioners were appointed as Secondary grade Assistants on 16.11.2016, 17.04.2017 and 13.12.2018 respectively in a sanctioned post. Pursuant to the appointment, the 5th respondent school submitted a proposal to the 3rd respondent through the 4th respondent for approval of appointment.

3. The 3rd respondent through proceedings dated 07.01.2020 rejected the proposal on the sole ground that there are surplus teaching staffs. Aggrieved by the same, the petitioners filed WP Nos.3439 of 2020 etc., before this Court. The same was considered along with a batch of cases and a common judgment was passed on 18.04.2022. This Court had set-aside the rejection orders and remitted the matter back to the file of the 3rd respondent for passing fresh orders on merits.



4. Pursuant to the above order, the matter went before the 3rd respondent and the 3rd respondent through proceedings dated 25.05.2023 once again rejected the proposal on the ground that the petitioners have been appointed in the surplus posts. The same became a subject matter of challenge in WP Nos.17909, 17913 and 17914 of 2023. That was virtually the 3rd round of litigation for the petitioners before this Court.

5. The learned Single Judge of this Court by a common order dated 15.09.2023 allowed the writ petitions and the relevant portions in the order are extracted hereunder :-

5. The petitioner were appointed as Secondary Grade Assistant on 16.11.2016, 17.04.2017 & 13.12.2018 respectively. In the earlier round of litigation, the approval was rejected by the 3rd respondent by his proceedings dated 07.01.2020 on the account of existence of surplus teachers. When that was put under challenge in W.P.Nos.3439 of 2020 etc batch cases, vide Order dated 18.04.2022, this court was pleased to set aside the order of the 3rd respondent rejecting to grant approval of appointment of the petitioner as Secondary Grade Teacher in the 5th respondent school, remitted the matter back with a positive direction to the 3rd



respondent to pass orders afresh granting approval of appointment of the petitioner as Secondary Grade Teacher, provided the said proposal satisfies all the norms prescribed for such a appointment and as per the rules.

6. It is relevant to note that while setting aside the order dated 07.01.2020 passed by the 3rd respondent rejecting the proposal seeking approval of appointment of the petitioner, this court in W.P.No.3439 of 2020 dated 18.04.2022, in para 10 has held as under:~

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 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.?

7. *In the earlier round of litigation, proposal was rejected citing that G.O.(Ms).165 dated 17.09.2019 was operating in the field. It is to be noted that this court in its order has clearly held that G.O.(Ms) No.165 dated 17.09.2019 would not be a bar to the case of the petitioner and it would not be applicable to the teachers who were appointed prior to the Government Order in G.O.(Ms) No.165 dated 17.09.2019. Still the impugned order came to be passed on the ground that surplus teachers.*

8. *It is relevant to note that the very issue was whether G.O.Ms.No.165 dated 17.09.2019 was applicable to the petitioner case or not? This court has categorically stated that G.O.(Ms) No.165 dated 17.09.2019 was only prospective in nature and approval have to be given in the cases where appointment of teachers were made prior to the said Government Order. Having non~suited the petitioner in the earlier round of litigation citing G.O.(Ms) No.165, now the impugned order has been passed on a different ground. The authorities cannot take different stand at different points of time to stick on their stand so as to negate the claim of the petitioner. Be that as it may, the impugned order came to be passed not on merits but the proposal was rejected merely on the ground that there are surplus teachers.*



9. *In the light of the above discussion and the factual matrix of the case, the impugned order is set aside and the matter is remitted back to the 3rd respondent for considering the proposal afresh and passing orders granting approval as sought by the school management, provided it satisfies all the norms prescribed for such appointment and the rules. While passing orders of the proposal, the 3rd respondent shall keep in mind the directions given by this court in W.P.No.3439 of 2020 dated 18.04.2022. If the authority concerned wants to raise any further query or make clarification, the same may be had from the school management. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.*

6. After the above order was passed and the matter was remanded back to the file of the 3rd respondent, the 3rd respondent has once again rejected the proposal through the impugned proceedings dated 08.07.2024. The 3rd respondent has once again stated that the petitioners have been appointed in the surplus posts. Aggrieved by the same, these writ petitions have been filed before this Court.

7. Heard Mrs.T.Dharani, learned counsel for the petitioner and



Mr.K.H.Ravikumar, learned Government Advocate for respondents 1 to 4.

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8. In the considered view of this Court, the present impugned orders passed by the 3rd respondent virtually amounts to contempt of Court. On the first occasion when the approval was rejected, it was challenged by the petitioners along with a batch of other similarly placed persons. The rejection order was set-aside by this Court and this Court made it clear that the approval cannot be denied on the ground of existence of surplus teachers. In spite of such an observation being made, the 3rd respondent once again through proceedings dated 25.05.2023 rejected the proposal on the ground that the petitioners were appointed in the surplus posts, notwithstanding the fact that they were appointed in the sanctioned post. This issue was once again dealt with by this Court and this Court found that the impugned order is unsustainable and it was also made clear that if the petitioners satisfied all the other requirements, their appointment must be approved keeping in mind the earlier order passed by this Court in WP No.3439 of 2020 etc., dated 18.04.2022.

9. It is quite unfortunate that the 3rd respondent has once again



rejected the approval by taking the very same stand that the petitioners have been appointed in the surplus posts. This time, for a change the 3rd respondent has given more particulars as to why he came to a conclusion that the petitioners were appointed in the surplus posts.

10. During the previous occasion, the 3rd respondent apart from taking the stand that the petitioners have been appointed in the surplus posts, also took a stand that the petitioners have not cleared the TET without knowing that clearing the TET will not apply to Minority Schools. This clarification was infact given by the Division Bench by an order dated 14.06.2024.

11. To add insult to injury, the order that was passed by the learned Single Judge in WP No.17907 etc., of 2023 was further confirmed by the Division Bench in WA Nos.1705 of 2024 by an order dated 14.06.2024. Thus, the 3rd respondent seems to be rejecting the sanctioning of the appointment on the very same ground every time inspite of this Court repeatedly setting aside such ground taken by the 3rd respondent.



12. The impugned orders passed by the 3rd respondent, as stated above virtually amounts to supplanting the earlier orders passed by this Court and thereby, is a clear violation of the orders passed by this Court. It clearly makes out a ground for initiating contempt proceedings against the 3rd respondent. However, this Court is not inclined to take such an extreme step for the present. This Court wants to wait and see the attitude of the 3rd respondent in complying with the orders passed in these writ petitions.

13. In the light of the above discussion, the impugned proceedings of the 3rd respondent in Na.Ka. No.517/A2/ 2022 dated 08.07.2024, Na.Ka. No.518/A2/ 2022 dated 08.07.2024 and Na.Ka. No.519/A2/ 2022 dated 08.07.2024, is hereby set-aside. There shall be a direction to the 3rd respondent to approve the appointment of the petitioners in the post of Secondary grade teachers in the 5th respondent school from the date of their appointment with all consequential and attendant benefits. This process shall be completed by the 3rd respondent within a period of six weeks from today.

14. In the result, all these writ petitions stand allowed with the



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above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

15. Post these cases under the caption for “Reporting compliance” on 03.10.2024 at 2.15 p.m.

19.08.2024

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH, J

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