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W.A.Nos.2319 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.Nos.2319, 2268, 2407, 2590, 2591, 2717, 2835 and 764 of 2022
and C.M.P.Nos.17303, 17742, 18559, 20451, 20453,
20458, 22072, 23206 and 5352 of 2022

W.A.No.2319 of 2022

1. The Directorate of School Education,
DPI Campus, College Road,
Chennai-600 006.
2. The Chief Educational Officer,
South Chennai District,
Presidency Girls Higher Secondary School Campus,
Egmore, Chennai-600 008.
3. The District Educational Officer,
South Chennai Education District,
Egmore, Chennai-600 008.

... Appellants/Respondents 1 to 3

-VS-

1. S.Pramila
2. The Correspondent,
Auxilium Girls Higher Secondary School,
74-75, Mc Nichols Road,
Chetpet, Chennai-600 031.

... Respondent/Petitioner

... Respondent/4th Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 29.10.2021 made in W.P.No.23222 of 2021 and allow this Writ Appeal.



W.A.Nos.2319 of 2022

For Appellants : Mr.J.C.Durairaj
Addl. Govt. Pleader (in all W.As.)
For R1 : Mr.S.Nedunchezhiyan
(in W.A.Nos.2319, 2268, 2590, 2591, 2717 & 764 of 2022)
Mr.S.N.Ravichandran (in W.A.2407/2022)
For R2 : No Appearance (in W.As.2268, 2407 & 764 /2022)
For Respondent : No Appearance (in W.As.2835/2022)

COMMON JUDGMENT

(By D.Krishnakumar,J.,)

The issue involved in all these Writ Appeals is one and the same and therefore, they are taken up together for final disposal.

2. These Writ Appeals have been filed against non-sanction of approval for appointment to the post of Teachers in the minority institutions, on the ground that the teachers sought to be appointed do not have the qualification of Teacher Eligibility Test (TEST).

3. For the sake of convenience, the facts are being taken from W.A.No.2319 of 2022 as under:

3.1. The Writ Petitioner was appointed on 11.06.2018 for the post of B.T.Assistant (Tamil) in the 4th respondent school and a proposal was sent to the 3rd



respondent for necessary approval, which was rejected vide impugned order dated 25.06.2021, on the ground that the Writ Petition has not passed TET;

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3.2. When the impugned order was put to challenge before the Writ Court, the same was quashed in terms of the judgment of Supreme Court, reported in 2016 (4) L.W. 841, which has been followed by this Court as well, with an observation that G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department dated 17.09.2019 was held to be inoperative by a Division Bench of this Court in a batch of cases in W.A.(MD) Nos.76 of 2019 etc., batch. Aggrieved by the same, the Appellants / Government are before this Court.

4. When these matters are taken up for hearing, learned Additional Government Pleader for the appellants fairly stated that proposals submitted by various Minority Institutions / Schools in respect of appointment of Teachers will be considered and appropriate orders will be passed thereon without reference to G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department dated 17.09.2019.

5. It is worthwhile to mention here that one of us (DKKJ), while hearing the similar issue singly in the case of **Fahmidunnisa vs. The Director of Elementary**.



Education, College Road, Chennai-6 [W.P.No.14240 of 2022] decided on 15.6.2022,

discussed the scope of G.O.Ms.No.165, in consonance with the judgment of a Division Bench of this Court dated 18.04.2022 and held as follows:

“2. The prayer as sought for in the instant writ petition is squarely covered by the judgment of this Court ***dated 18.4.2022 in W.P.No.3194 of 2020, etc. Batch case [B.Kurinjimalaron vs. The State of Tamil Nadu rep. by its Secretary, Education Department, Fort St. George, Chennai-9]*** wherein this Court held as follows:

"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 appointments 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 the appointments made by the School Management in the instant writ petitions since the proposals for approval of appointments 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.

11. Accordingly, the impugned orders passed by the respondent department in the aforesaid writ petitions are quashed and remitted to the Chief Educational Officers/District Educational Officers concerned, to consider and pass an order of approval of the appointments made by the School management, provided the



said proposals satisfies all the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order. It is made clear that those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief granted hereinabove.”

3. In the light of the judgment cited supra, the impugned order passed by the second respondent is quashed and remitted to the second respondent to consider and pass an order of approval of the appointment made by the fourth respondent School, in the light of the judgment cited supra, provided the said proposal satisfies all the norms prescribed for such appointment and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order.”

Thereafter, no appeal has been filed as against the said order dated 15.06.2022 and therefore, it attained finality.

6. However, in view of the fairness shown by the learned Additional Government Pleader for the appellants and in the light of the order dated 15.06.2022 passed in the Writ Petition (supra), all these Writ Appeals are disposed of, with a direction to the appellants herein to consider and pass an order of approval of the appointments made by the School Management, provided the said proposals satisfy the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of a copy of



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AND
K.KUMARESH BABU,J.,
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this judgment, bearing in mind the afore-stated judgment. It is made clear that those who are appointed to the post of Secondary Grade Teacher/B.T. Assistant/Middle Grade Assistant prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and also, the proposals for approval of such appointments were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 alone are entitled to the relief granted hereinabove. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.] [K.B., J]
08.07.2024

Index: Yes / No
Internet: Yes / No
Speaking Order/Non Speaking Order
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