



WEB COPY



W.P.No.30147 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.30147 of 2023
and WMP Nos.29773 & 29774 of 2023

P.Gracy

.... Petitioner

-Vs-

1.The Director of Elementary Education
DPI Campus
Chennai 600 006.

2.The District Educational Officer
Hosur, Krishnagiri District.

3.The Block Educational Officer
Kelamangalam Block
Denkanikottai Taluk
Krishnagiri District.

4.The Correspondent
St. Joseph Primary Aided School
Kelamangalam Block
Denkanikottai Taluk
Krishnagiri District.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in Na.Ka.No.1429/A7/2020 dated 29.10.2020 and quash the same and



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consequently direct the respondents to grant approval to the appointment to the petitioner to the post of Secondary grade teacher in the 4th respondent school with effect from 01.08.2019 with service and monetary benefits.

For Petitioner : Mrs.Dakshayani Reddy
Senior Counsel
for Ms.S.Suneetha

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 to R3

No appearance for R4

ORDER

This writ petition has been filed challenging the impugned proceedings of the 2nd respondent dated 29.10.2020 and for a consequential direction to the respondents to grant approval to the appointment of the petitioner to the post of Secondary Grade Teacher in the 4th respondent School with effect from 01.08.2019.

2.The case of the petitioner is that the 4th respondent is a aided minority School which comes under the control of Servite Generalate. The petitioner was appointed to the post of secondary grade teacher under the vacancy which arose due to the retirement of the incumbent. The further case of the petitioner is that she was appointed in a sanctioned post.



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3.The 4th respondent School forwarded the proposal seeking for sanction of the appointment of the petitioner. The same was rejected by the 2nd respondent through impugned proceedings dated 29.10.2020. Aggrieved by the same, the present writ petition has been filed before this Court.

4.Counter affidavit has been filed by the 3rd respondent. The 3rd respondent has taken a stand that the 4th respondent School must only deploy surplus teacher and instead the 4th respondent has made a fresh appointment of the petitioner which is contrary to the Government Order. Thus, the fresh appointment of the petitioner is illegal and there was no surplus post available. According to the 3rd respondent, the management ought to have deployed any one of the four surplus teachers in the vacancy and instead, a fresh appointment was made. Therefore, proposal was rejected. Accordingly, the official respondents have sought for the dismissal of this writ petition.

5.Heard Mrs.Dakshayani Reddy, learned Senior Counsel for the petitioner, Mrs.S.Mythreye Chandru, learned Special Government Pleader for R1 to R3. There is No appearance for R4 either in person or through counsel.

6.In the considered view of this Court, the issue that is involved in the present writ petition is squarely covered by the judgment of the Division Bench in WA (MD).Nos.76 of 2019 etc., dated 31.03.2021. The Division Bench made it clear that



the operation of G.O.Ms.No.165 dated 17.09.2019, is only prospective and it cannot operate retrospectively disabling the schools from filling up the sanctioned post.

7.This judgment was subsequently followed in WA(MD).No.1098 of 2022 dated 16.8.2023. It was held that where the appointment was made in a sanctioned post prior to the Government Order, the pre-condition for redeployment of surplus teachers will not come into play since GO.Ms.No.165 was not in operation.

8.In the light of the above judgments, the impugned proceedings of the 2nd respondent dated 29.10.2020, is unsustainable and the same is hereby quashed. There shall be a direction to the 4th respondent to resubmit the proposal to the 2nd respondent through the 3rd respondent seeking for the approval of the appointment of the petitioner in the post of Secondary Grade Teacher in the 4th respondent School. The same shall be considered and appropriate orders shall be passed by the 2nd respondent granting approval with all attendant benefits, if the petitioner has satisfied all the other requirements. The proceedings shall be issued within a period of six weeks from the date of receipt of copy of the order. It goes without saying that the School in question is an aided minority School and therefore, the respondents should not insist for TET qualification.

9.In the result, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.



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Index : Yes/No

NCS : Yes/No

KP

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N.ANAND VENKATESH, J.



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