



W.P.No.36032 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.36032 of 2024

Sarojini Varadappan
Girls Higher Secondary School,
Represented by its Correspondent
Mr.V.K.Natarajan
No.10/3, School Road, Kandaswamy Nagar,
Extension, Poonamallee,
Chennai - 600 056.

Petitioner(s)

Vs

1.The State of Tamil Nadu,
Represented by its Secretary to Government
School Education Department,
Fort St.George, Chennai - 600 009.
2.The Director of School Education,
College Road, DPI Campus,
Chennai - 600 006.
3.The Chief Educational officer,
Thiruvallur- 602001
Thiruvallur District.
4.The District Educational Officer
(Secondary Education)
Ponneri, 601204
Thiruvallur District.

Respondent(s)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 4th respondent to grant prior permission to fill up the three vacant post of B.T. Assistants (one B.T. Assistant (Social Science) from the year 2011, second one B.T. Assistant (Maths) from the year 2014 and third one B.T. Assistant (English) post from the year 2022) in the petitioner school namely Sarojini Varadappan Girls Higher Secondary School, No.10/3, School Road, Kandaswamy Nagar, Extension, Poonamallee, Chennai - 600 056, as per re-submitting proposal dated 15.05.2024 and in accordance with law within a time to be stipulated by this Court.

For Petitioner(s):

Mr. P.Ganesan

For Respondent(s):

Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This writ petition has been filed to direct the 4th respondent to grant prior permission to fill up the three vacant post of B.T. Assistants (one B.T. Assistant (Social Science) from the year 2011, second one B.T. Assistant (Maths) from the year 2014 and third one B.T. Assistant (English) post from the year 2022) in the petitioner school namely Sarojini Varadappan Girls Higher Secondary School, No.10/3, School



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Road, Kandaswamy Nagar, Extension, Poonamallee, Chennai - 600 056,
as per re-submitting proposal dated 15.05.2024 and in accordance with
law within a time to be stipulated by this Court.

2. The case of the petitioner is that one post of B.T. Assistant (Social science) fell vacant from 15.06.2011, due to the incumbent Mrs.M.S.Thiripurasundari promoted as P.G. Assistant (History). The second vacancy arose in the cadre of B.T. Assistant (Maths) from 30.04.2014 due to retirement of the incumbent Mrs.K.S. Padmaja. The Third vacancy arose in the cadre of B.T. Assistant (English) from 30.06.2022, due to retirement of the incumbent Mrs. G. Prema. The petitioner school seeking prior permission for the vacancy of the year 2011, 2014& 2022 well within the sanctioned strength in respect of the academic year 2011, 2014 and 2022. The petitioner school submitted proposal dated 05.07.2023 to the 3rd respondent seeking prior permission to fillup the 3 post of B.T. Assistants by direct recruitment. The 3rd respondent returned the proposal on 20.11.2023 stating that it can be considered only after staff fixation done for the year 2023-2024. The 4th respondent also reinstated the same reasons and returned the proposal on 22.12.2023. The petitioner school re-submitted the proposal



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on 15.05.2024 to the 4th respondent and also submitted the reminder which is still pending. In the said circumstances, the authorities cannot deny the grant of approval to the petitioner school by taking into consideration the subsequent fact of reduction of students- strength in the following academic years of School.

(ii). The petitioner relies on the terms of the orders passed by this Court in W.A.Nos.93 and 94 of 2008 dated 06.01.2010, no prior permission was required from the Department to fill up the sanctioned vacant post. The decision was also followed by this Court in W.P. (MD) No.3772 of 2008 dated 25.07.2011 holding that as per Rule 15 of the Tamil Nadu Private School Regulation Rules, for appointment to the sanctioned post, no prior approval is necessary nor it could be a ground to deny approval of appointment of a qualified person. Following the dictum, a number of decisions have been rendered on the subject-matter and also a recent decision of this Court pronounced on 02.03.2022 in W.P.No.17768 of 2020, wherein, this Court, in similar circumstances, considered the claim of the petitioner therein and allowed the writ petition by overruling the objections of the Department viz., prior approval was necessary for appointment of a teacher against a sanctioned



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post for filling up the sanctioned vacancy, there was no prior approval required at all. Further, the crucial consideration of the authority was the date of vacancy which arose in a particular year and not dependent on the subsequent development viz., reduction of strength of the students or surplus age in the district concerned. In this regard, it is relevant to refer to the decision cited by the petitioner as an answer to the objections raised herein on behalf of the respondents in the case of J.Kanchana vs. Director of Elementary Education, Chennai and others in W.P.No.17768 of 2020, dated 02.03.2022, in which, it has been held that the approval of the educational authorities must relate back to the date of vacancy/appointment, but it cannot depend on the contingencies and developments that might happen subsequent to the appointment of the teacher concerned.

3. Learned Counsel appearing for the respondents would submit that the petitioner's case will be considered by the respondents on its own merits and in accordance with law, within the time fixed by this Court.

4. In view of the same, without going into the merits of the claim made by the petitioner, this Court is inclined to direct the



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respondents to consider the case of the petitioner as per re-submitting proposal dated 15.05.2024, on merits and in accordance with law, within a period of twelve(12) weeks from the date of receipt of copy of this order.

5. With the above direction, the Writ Petition stands disposed of.

No costs.

06.12.2024

Index: Yes/No

Speaking order/Non-speaking order

msv

To

To

1.The Secretary to Government

State of Tamil Nadu,

School Education Department,

Fort St.George, Chennai - 600 009.

2.The Director of School Education,

College Road, DPI Campus,

Chennai - 600 006.

3.The Chief Educational officer,

Thiruvallur- 602001

Thiruvallur District.

4.The District Educational Officer

(Secondary Education)

Ponneri, 601204, Thiruvallur District.



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V.BHAVANI SUBBAROYAN,J.

msv

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