



W.P.(MD).No.4439 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4439 of 2024

and

W.M.P(MD) Nos.4262 and 4263 of 2024

R.Soosai Mary

... Petitioner

Vs.

1. The District Educational Officer,
Dindigul District, Dindigul.

2. The Block Educational Officer – I,
Dindigul (Urban)
Dindigul District.

3. The Correspondent,
St. Little Flower Primary School,
Undarpatty,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Oo.Mu.No.930/A1/2019, dated 11.10.2019 passed by the second respondent and quash the same and consequently direct the respondents 1 and 2 approve the appointment of the petitioner as Secondary Grade Teacher with effect from 17.06.2019 with all consequential monetary benefits payable to her.



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For Petitioner : Mr.T.Antony Arulraj
For R1 and R2 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R3 : Mr.S.Savarimuthu
for M/s.Father Xavier Association

ORDER

The instant Writ Petition has been filed by a Secondary Grade Teacher appointed in the third respondent School, challenging the order passed by the second respondent herein, wherein, the request of the Management to approve the appointment of the writ petitioner has been rejected.

2. According to the learned counsel appearing for the writ petitioner, a vacancy arose to the post of Secondary Grade Teacher due to the promotion of one Leemarose on 03.06.2019. In the said vacancy, the petitioner herein was appointed by the Management on 17.06.2019. The proposal was forwarded to the second respondent on 17.06.2019. Under the impugned order dated 11.10.2019, the said proposal has been rejected citing G.O.(Ms) No.165, School Education Department, dated 17.09.2019. The said order is under challenge in the present writ petition.



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3. According to the learned counsel appearing for the writ petitioner, the appointment having been made prior to the above said Government Order, the Government Order is not applicable. He further contended that the said Government Order has been held to be un-enforceable by the High Court on a later point of time. Therefore, the order impugned in the writ petition may be set aside and prays for approval of the appointment.

4. The learned counsel appearing for the writ petitioner had relied upon the Hon'ble Division Bench Judgment of this Court in W.A.No.2134 of 2024, dated 29.10.2024 and contended that in case if the appointments are made prior to 31.03.2021, even if there are surplus teachers, the approval has to be granted and thereafter have to be deployed to the needy Schools.

5. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 had contended that when the impugned order was passed on 11.10.2019, G.O.(Ms) No.165, School Education Department was in force and therefore, the authorities were right in invoking the said Government Order. He further contended that the third respondent School is



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under a Corporate Management and unless it is verified whether there are any surplus Secondary Grade Teachers in the said corporate Management, the approval cannot be granted to the appointment of the writ petitioner.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. As rightly contended by the learned counsel for the writ petitioner, as on today G.O.(Ms) No.165, School Education Department, dated 17.09.2019 is not enforceable and therefore, such a reason cannot be sustained by this Court.

8. The petitioner has been appointed on 17.06.2019 as a Secondary Grade Teacher prior to the order of this Court in ***W.A(MD) No. 76 of 2019, dated 31.03.2021 (The Secretary to Government, School Education Department and two others vs. Iruthaya Amali and another)***. Therefore, in view of the Hon'ble Division Bench judgment of this Court in ***W.A.No.2134 of 2024, dated 29.10.2024 (The State of Tamil Nadu, Represented by its Secretary, Department of School Education, Fort St.George, Chennai – 600***



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009 and two others Vs. The Correspondent, St.Joseph's Covnent Higher Secondary School, Nagercoil, Kanyakumari District), the authorities shall proceed to approve the appointment of the writ petitioner and in case. if they arrived at a finding that the appointment is surplus in nature, consequential deployment orders shall be issued.

9. Therefore, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the second respondent. The second respondent is directed to forward the files to the third respondent for her approval. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the above said observations, this Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

20.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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Dindigul.
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