



W.A(MD)No.1626 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1626 of 2024
and
C.M.P.(MD)No.12718 of 2024**

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai-9.
 - 2.The Director of School Education,
DPI Campus, College Road,
Chennai-6.
 - 3.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Tenkasi District.
 - 4.The District Educational Officer,
O/o. the District Educational Officer,
Tenkasi District.
- ... Appellants / Respondents 1 to 4

-VS-

- 1.Arul Jenitta
... 1st Respondent / Writ Petitioner
- 2.The Correspondent,
St. Michaels Girls Higher Secondary
School,
Tenkasi-627 811.
... 2nd Respondent / 5th Respondent

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the



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judgement dated 02.09.2022 in W.P.(MD)No.18522 of 2022.

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For Appellants : Mr.S.P.Maharajan,
Special Government Pleader

For R-1 : Fr.S.Savarimuthu,
for M/s. Father Xavier Associates

For R-2 : No appearance

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The Government is on appeal against the order of the learned single Judge, directing approval of the appointment of the 1st respondent as Graduate Teacher in Science in the 2nd respondent school.

2. The 2nd respondent school claimed approval for appointment of the 1st respondent as a Graduate Teacher in Tamil on 21.01.2021, since Tmt.P.Margaret Shanthi had retired voluntarily on 31.12.2020. The approval sought for by the management was rejected on the ground that since no staff fixation has been done for the years 2020-2021 and 2021-2022, the approval cannot be granted. The Writ Court found the rejection unsustainable, since the appointment was made to a sanctioned post by a Minority Institution. The authorities cannot refuse approval unless it is shown that there are surplus teachers either in the school or in the corporate management. The fact that the staff fixation was not done,



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cannot be a ground for refusing approval.

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3. We have heard, Mr.S.P.Maharajan, learned Special Government Pleader appearing for the appellants and Mr.S.Savarimuthu appearing for the 1st respondent.

4. Mr.S.P.Maharajan, learned Special Government Pleader would contend that the appointment was made during the time when the lock down due to Covid-19 was in force and in the absence of staff fixation, it cannot be gathered as to whether the teacher appointed is within the strength available in the school.

5. We do not think, these grounds can be sustained. The appointment is made by a Minority Institution in a sanctioned vacancy and according to the staff fixation done for the year 2019-2020, the school is entitled to four Graduate Teachers in Science. One of the Graduate Teachers retired voluntarily paving way for appointment of the 1st respondent. Therefore, it cannot be said that the 1st respondent's appointment would lead to there being surplus teachers in the school. We are therefore, unable to find fault with the writ Court for having directed approval of the appointment.

6. The writ appeal fails and it is accordingly, dismissed. The



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appellants will approve the appointment of the 1st respondent with effect from 20.01.2021 within a period of eight weeks from the date of receipt of a copy of this order. All financial benefits including salary due to the 1st respondent shall be paid within a period of twelve (12) weeks from today. The salary will carry interest at 6 percentage per annum from the date of on which it became due till the date of payment. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

04.10.2024

NCC :Yes/No

Index :Yes/No

Internet: Yes

Sml

To

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