



W.P.(MD).No.5083 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.5083 of 2023

and

W.M.P.(MD).No.4778 of 2023

The Correspondent,
St.Joseph's College Higher Secondary School,
Near Chatram Bus Stand,
Trichy District – 620 002.

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.

2.The Director of School Education,
College Road,
Chennai – 600 006.

3.The Chief Educational Officer,
Trichy,
Trichy District.

4.The District Educational Officer,
Trichy,
Trichy District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fourth respondent DEO in Na.Ka.No.9155/A2/2019 dated --.03.2021 (signed as 08.04.2021) and O.Mu.No.1086/A1/2022 dated --.09.2022 (signed as 21.09.2022), quash the same and further direct the respondents 3 and 4 to approve forthwith the appointment of S.Arun Dinesh Raj as Physical Education Teacher, in the petitioner School with effect from 04.06.2019, with all attendant benefits including arrears of salary.

For Petitioner : Mr.K.Ragatheesh Kumar
For M/s.Isaac Chambers

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mr.K.Ragatheesh Kumar, for M/s.Isaac Chambers, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate, appearing for the respondents.

2. This Writ Petition has been filed seeking to quash the order of the fourth respondent dated --.03.2021 (signed as 08.04.2021) and --.09.2022 (signed as 21.09.2022) and further direct the respondents 3 and



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4 to approve forthwith the appointment of S.Arun Dinesh Raj as Physical Education Teacher, in the petitioner School with effect from 04.06.2019, with all attendant benefits including arrears of salary.

3. The petitioner School appointed one S.Arun Dinesh Raj as Physical Education Teacher on 04.06.2019 on account of retirement of the then incumbent namely, S.Pandian. When the proposal was sent for approval of the appointment of S.Arun Dinesh Raj, to the fourth respondent, the same was returned, directing the petitioner's School to enclose some relevant documents. The petitioner School resubmitted the proposal with suitable reply, which was returned vide impugned proceedings dated --.03.2021 stating that there are 13 Physical Education Teacher posts remain surplus in Trichy and hence, the petitioner's application cannot be considered.

4. The petitioner School is a aided minority institution and comes under the same Management. However, the impugned order does not state that the Corporate Management under which the School is governed, there are surplus posts in the cadre of Physical Education Teacher. But the reason stated in the impugned order is that there are 13



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Physical Education Teachers available in the whole of the District for the year 2019-2020.

5. Since the petitioner School is an aided minority institution and the appointments can be made by such institutions as per their preference, the respondents ought to have considered whether any surplus is available in the same Corporate Management. If there is no surplus available in the same Corporate Management, then the respondents are obligatory to approve the appointment of the said S.Arun Dinesh Raj as Physical Education Teacher without citing the surplus available in the entire District.

6. Further, the appointment of Arun Dinesh Raj was made on 04.06.2019 which is prior to the judgment ***dated 31.03.2021*** rendered in the case of ***Secretary to Government and others Vs Iruthaya Amali and another (W.A.(MD)No.76 of 2019)***, by framing guidelines as to how the surplus in the School coming under the same Corporate Management should be dealt.



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7. Since the appointment has been made even prior to passing of the said judgment, nothing would prevent the respondents from giving approval to the appointment of S.Arun Dinesh Raj.

8. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned order in Na.Ka.No.9155/A2/2019 dated --.03.2021 (signed as 08.04.2021) and O.Mu.No.1086/A1/2022 dated --.09.2022 (signed as 21.09.2022) are set aside. The respondents 3 and 4 are directed to consider the petitioner's claim with regard to approval of appointment of S.Arun Dinesh Raj as Physical Education Teacher with effect from 04.06.2019, if the proposal sent by the petitioner School is otherwise in order and pass orders, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:
WEB COPY

- 1.The Secretary,
The State of Tamil Nadu,
Department of School Education,
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- 2.The Director of School Education,
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- 3.The Chief Educational Officer,
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Trichy District.
- 4.The District Educational Officer,
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R.N.MANJULA, J.

Nsr

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