



W.P(MD)No.6394 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P(MD)No.6394 of 2024
and W.M.P(MD)No.5986 of 2024

G.Pitchamuthu

... Petitioner

Vs.

1.The Chief Educational Officer,
Kokkirakulam,
Tirunelveli District.

2.The District Educational Officer,
(Secondary Education),
Kamaraj Municipal Higher Secondary School (Campus),
Pettai,
Tirunelveli District.

3.The Correspondent,
St. Peter's Higher Secondary School,
Ukkirankottai,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the second respondent DEO in A.Thi.Mu.No.3634/a3/2023 dated --.08.2023 quash the same, further direct the first respondent Chief Educational Officer herein to approve forthwith the appointment of the petitioner as



W.P(MD)No.6394 of 2024

Drawing Teacher in the third respondent school namely, St.Peter's Higher Secondary School, Ukkirankottai from the date of his appointment i.e., 16.10.2018 and disburse the grant-in-aid towards his salary and allowance w.e.f the said date.

For Petitioner : Ms.A.Amala

For Respondents : Mr.T.Amjad Khan
Government Advocate
for R.1 & R.2

ORDER

The petitioner has filed the present Writ Petition for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings issued by the second respondent/the District Educational Officer in A.Thi.Mu.No.3634/a3/2023 dated --.08.2023 and consequently, to direct the first respondent/the Chief Educational Officer herein to approve forthwith the appointment of the petitioner as Drawing Teacher in the third respondent School, namely, St.Peter's Higher Secondary School, Ukkirankottai, from the date of his appointment i.e., 16.10.2018 and disburse the grant-in-aid towards his salary and allowance with effect from the said date.

2. Heard Ms.A.Amala, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 and 2.

2/7



W.P(MD)No.6394 of 2024

WEB COPY

3. Ms.A.Amala, learned counsel appearing for the petitioner submitted that the petitioner has been working as a Drawing Teacher in the third respondent School, which is a recognized Minority Educational Institution, from 16.10.2018 onwards. The third respondent School submitted a proposal to the second respondent for approval of appointment of the petitioner. However, the second respondent returned the same stating that the Commissioner of School Education as well as the Director of Elementary Education vide proceedings in Na.Ka.No.34116/d1/e4/2013, dated 29.03.2023, has instructed to approve the appointment of PG Assistant and the Headmistress and there is no instruction from the Government with regard to the approval of other Teachers. As per the instruction and the Government Order issued further, it would be considered.

4. The learned counsel for the petitioner attracted the attention of this Court to the staff strength of the third respondent School for the year 2018-2019 and the subsequent year 2019-2020 and submitted that the petitioner was appointed on 16.10.2018, during which time, one post of Drawing Teacher has been sanctioned and was available in the third respondent School.



W.P(MD)No.6394 of 2024

5. Further, the issue has been dealt at length by the Hon'ble Division Bench of this Court in W.A.(MD).No.76 of 2019 batch dated 31.03.2021 in the case of the Secretary to Government Government of Tamil Nadu School Education Department, Fort St. George, Chennai – 9 vs Iruthaya Amali. The relevant portion is extracted hereunder.

'95. In view of the aforesaid discussions, we are inclined to pass the following orders in this batch of cases :

.....

(v) Like that insofar as aided minority institutions are concerned, if it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength for the academic year 2021-22 shall not be affected because of the identified excess teachers in other schools. At the same time, even if the school is a minority institution, however being administered by a joint management or corporate management, in respect of those schools, even though vacancy arose within the sanctioned strength of such school or schools under corporate management or joint management, those vacancies shall not be filled up unless the excess staff identified in all other schools under the same corporate or joint management are exhausted fully and only after exhausting the redeployment process on all excess teachers identified in the group of schools under the same corporate



W.P(MD)No.6394 of 2024

management, they shall be free to make appointment afresh from open market in the vacancy if any still, within the sanctioned strength.'

6. Admittedly, the third respondent School is a recognized Minority Educational Institution. In such case, as per the Judgment cited supra, surplus teachers theory is not applicable to them. Therefore, the impugned order is liable to be set aside.

7. In view of the above stated reasons, this Writ Petition is **disposed of** and the impugned order of the second respondent dated Nil.08.2023 is set aside. The first respondent is directed to consider and pass orders regarding the approval of appointment of the petitioner as Drawing Teacher in the third respondent School with effect from 16.10.2018. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
ps

25.06.2024



W.P(MD)No.6394 of 2024

WEB COPY

To

- 1.The Chief Educational Officer,
Kokkirakulam,
Tirunelveli District.
- 2.The District Educational Officer,
(Secondary Education),
Kamaraj Municipal Higher Secondary School (Campus),
Pettai,
Tirunelveli District.
- 3.The Correspondent,
St. Peter's Higher Secondary School,
Ukkirankottai,
Tirunelveli District.



WEB COPY



W.P(MD)No.6394 of 2024

R.N.MANJULA,J.

ps

W.P(MD)No.6394 of 2024

25.06.2024