



W.P.(MD)No.6614 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.6614 of 2024

and

WMP(MD)No.6165 of 2024

The Correspondent
St.Joseph's Middle School,
Kallakurichi, Thuckalay,
Kanyakumari District.

.. 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 Elementary Education,
College Road,
Chennai - 600 009.

3. The District Educational Officer,
(Elementary Education),
Nagercoil, Kanyakumari District.

4. The Block Educational Officer,
Thuckalay,
Kanyakumari District.

.. Respondents



W.P.(MD)No.6614 of 2024

WEB COPY

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent District Educational Officer in Na.Ka.No.452/a4/2024 dated 29.02.2024 and the consequential impugned proceeding of the 4th respondent BEO in Oo.Mu. No.116/A/2024 dated --.03.2024 and quash the same, further direct the 3rd respondent District Educational Officer herein to approve forthwith the appointment of V.Bable Vijila as Physical Education Teacher in the petitioner's school from the date of her appointment i.e., 01.06.2018 and disburse the grant-in-aid towards her salary and allowance with effect from 01.06.2018.

For Petitioner : Ms.A.Amala

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Ms.A.Amala, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the



W.P.(MD)No.6614 of 2024

respondents.

2. The petitioner has filed this writ petition challenging the proceedings of the third respondent in Na.Ka.No.452/a4/2024 dated 29.02.2024 and the consequential impugned proceeding of the 4th respondent BEO in Oo.Mu.No.116/A/2024 dated --.03.2024 and to consequently direct the respondents to approve the appointment of one V.Bable Vijila in the post of Physical Education Teacher in the petitioner school with effect from 01.06.2018 based on the proposal forwarded by the petitioner school dated 25.07.2022 with all consequential and attendant benefits.

3. The petitioner school is a Government aided Minority Educational Institution governed under the provisions of Tamil Nadu Recognized Private Schools (Regulations) Act, 1973 and Rules 1974. A vacancy to the post of Physical Education Teacher arose due to the retirement of a previous incumbent one M.John Baviyolal on 31.05.2018 and consequently one V.Bable Vijila has been appointed as Physical



W.P.(MD)No.6614 of 2024

Education Teacher on 01.06.2018. After appointing the said Bable Vijila, the appointment proposal has been forwarded to the third respondent for granting approval. But the same was rejected by virtue of the proceedings of the third respondent dated 29.02.2024.

4. Ms.A.Amala, learned Counsel for the petitioner submitted that the V.Bable Vijila was appointed on 01.06.2018 as against the sanctioned post and hence the proposal sent by the petitioner should be approved. In the proposal dated 20.12.2018, the petitioner has stated that the said Bable Vijila has been appointed prior to 31.07.2018 during which time one post for Physical Education Teacher was vacant. It is seen from the staff fixation order issued by the third respondent for the year 2018-2019, one post for Physical Education Teacher is sanctioned. The said post was continued to be available even at the time of staff fixation for the year 2019-2020 and 2020-2021 were issued.

5. Since the petitioner is a Minority Institution, they need not seek any prior approval. Further, if the post fell under surplus, the petitioner has to get prior approval. However, the third respondent has



W.P.(MD)No.6614 of 2024

passed an order stating that fresh appointments cannot be made in view of G.O.Ms.165 dated 17.09.2019.

6. The legal position in respect of G.O.Ms.165 dated 17.09.2019 has been dealt in various orders of this Court and it is held that so far as the appointments made against the sanctioned posts for private aided schools, the Government Order in G.O.Ms.165 dated 17.09.2019 has got no application. It is not in dispute that the post for which the said V.Bable Vijila has been appointed is a sanctioned post. There is no question of prior permission since G.O.Ms.165 dated 17.09.2019 is inoperative by virtue of the judgment of the Division Bench rendered in W.A.(MD)No.76 of 2019 & batch and the same has been followed in various other orders of this Court including the orders passed in similar such cases involved in W.P.No.1307 & 18248 of 2021, W.P.No.4021/2023 and W.P.No.16698/2012.

7. Since the issue involved in this case is as similar as that of the issue that has arisen in the above dealt cases where direction has been



W.P.(MD)No.6614 of 2024

given to the respondents to consider the proposal of the petitioner and grant approval, this writ petition should also be allowed in similar line.

8. In the result, this writ petition is **disposed of** with a direction to the third respondent to reconsider the proposal/representation dated 22.01.2024 sent by the petitioner to approve the appointment of V.Bable Vijila in the post of Physical Education Teacher in the petitioner school with effect from 01.06.2018, with all consequential and attendant benefits, and pass appropriate orders afresh in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

10.04.2024

NCC: Yes/No
Index : Yes/No
Internet: Yes/No
P JL



W.P.(MD)No.6614 of 2024

WEB COPY

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
College Road,
Chennai - 600 009.
3. The District Educational Officer,
(Elementary Education),
Nagercoil, Kanyakumari District.
4. The Block Educational Officer,
Thuckalay,
Kanyakumari District.



WEB COPY



W.P.(MD)No.6614 of 2024

R.N.MANJULA,J.

PJL

W.P.(MD)No.6614 of 2024
and
WMP(MD)No.6165 of 2024

10.04.2024