



W.P.(MD)No.7819 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.7819 of 2024

and

W.M.P(MD).Nos.7117 & 7119 of 2024

The Correspondent,
Sacred Heart Girls Higher Secondary School,
Srivilliputhur - 626 125
Virudhunagar District.

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.
- 2.The Director of School Education,
College Road, Chennai – 600 009.
- 3.The Chief Educational Officer,
Virudhunagar, Virudhunagar District.
- 4.The Chief Educational Officer,
Kanyakumari District at Nagercoil,



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Kanyakumari District – 629 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the 4th respondent CEO in Na.Ka.No.8740/A4/2023 dated 16.02.2024, quash the same as illegal and void.

For Petitioner :Mr.Isaac Mohanlal
Senior Counsel
for M/s. Isaac Chambers

For Respondents :Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.Isaac Mohanlal, learned Senior Counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner School has filed this petition seeking to issue a Writ of Certiorari to call for the records relating to the



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impugned proceedings of the 4th respondent in Na.Ka.No. 8740/A4/2023 dated 16.02.2024 and quash the same.

3. Mr.Isaac Mohanlal, learned Senior Counsel appearing for the petitioner school submitted that the petitioner school is one among the various institutions owned and administered by the Missionary Sisters of the Immaculate Heart of Mary, Tiruchirappalli (in short 'ICM'). The petitioner school submitted necessary proposal to the DEO for the purpose of approval of the appointment of 3 BT Assistant posts and 2 Secondary Grade Teachers posts which fell vacant from the year 2019 to 2022. However, the DEO returned the proposals citing G.O.Ms.No.165 dated 17.09.2019. However, in the subsequent judgment of this Court dated 31.03.2021 made in W.A.(MD)No.76 of 2019 etc. batch, the said Government Order has been declared as inoperative, especially, against Minority Institutions like the petitioner school. Hence, the DEO ought to have considered the above facts before rejecting the appointment of the petitioner.



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4. The learned Senior Counsel further submitted that as per the order of this Court dated 31.03.2021, the Department is bound to approve the appointments made prior to 31.03.2021 in the sanctioned vacancies in a particular school without the availability of surplus teachers in the other schools which come under the very same Management. However, if any appointment is made after the order of this Court dated 31.03.2021, it is the responsibility of the school to establish that no surplus teacher in the particular subject is available in any of the schools under the very same Minority Management. As such the petitioner made few fresh appointments after the orders of this Court dated 31.03.2021, after ascertaining that no surplus teachers in the particular subject is available in any of the school under the very same management. Hence, the DEO is bound to approve all the appointments. Be that as it may, the 4th respondent/CEO, Kanyakumari District vide his proceedings in Na.Ka.No.8740/A4/2023 dated 16.02.2024 deployed some of the surplus teachers from certain schools which come under the ICM



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Management in Kanyakumari District to the petitioner school at Virudhunagar without ascertaining the vacancy position in the petitioner school. It is against the principles of natural justice. Hence, the 4th respondent/CEO, Kanyakumari District has no authority to direct the schools in Kanyakumari District to deploy their excess teachers to the other school in Virudhunagar District.

5. Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents submitted that all the Schools are coming under the same Management viz., 'Missionary Sisters of the Immaculate Heart of Mary'. So the 4th respondent deployed some of the surplus teachers from certain schools which come under the ICM Management in Kanniyakumari District to the petitioner School vide impugned order dated 16.02.2024.

6. The learned Senior Counsel further submitted that so far as the petitioner school is concerned it is an aided minority school.



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This Court vide order dated 31.03.2021 in W.A(MD)No.76 of 2019 etc batch., while prescribing the procedure for deployment of the surplus teachers, has also protected the Constitutional Right of the Minority management to appoint qualified candidates of their choice in the event of non-availability of surplus posts within the Management. So, the question of filling up the vacancy by deploying in minority schools in the same Management will not arise in view of the special status of minority schools and the autonomy assured to them under Article 30 of the Constitution of India.

7. In addition to the above, in the instant case, the Compendium of Schedule was not followed and no deployment has been effected before 15th October of the Academic Year as per the direction given by this Court vide order dated 31.03.2021. The vacancy position was not verified in order to know that the petitioner School have any surplus posts as on date. The fourth respondent has got no jurisdiction to deploy those Teachers who are working in his



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District to some other District. The principles of natural justice were not followed by putting the petitioner School on notice, prior to the issuance of the impugned deployment order dated 16.02.2024.

8. Since the impugned order has been passed without considering the essential facts and the earlier judicial pronouncements, the impugned order is liable to be set aside.

9. In view of the above stated reasons, this writ petition is **allowed** and the impugned order of the fourth respondent in Na.Ka.No. 8740/A4/2023 dated 16.02.2024 is quashed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

16.04.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
PJJ



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To

- 1.The Secretary,
Department of School Education,
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Chennai – 600 009.
- 2.The Director of School Education,
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- 3.The Chief Educational Officer,
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R.N.MANJULA, J.

PJL

W.P.(MD)Nos.7815 to 7818 of 2024

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