



WP(MD) No.10163 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.10163 of 2024

and

W.M.P(MD)Nos.9183 & 9184 of 2024

The Correspondent

St. James High School,

Valiyavilai - 629 57,

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 School Education,

College Road,

Chennai - 600 009.



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3.The Chief Educational Officer

Kanyakumari,

Kanyakumari District.

4.The District Educational Officer,

Marthandam,

Kanyakumari District.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent District Educational Officer in Na.Ka.No.4573/Aa2/2019 dated 03.10.2020 and the proceedings of the DEO in Na.Ka.No.810/Aa2/2021 dated 02.08.2021 quash the same and further direct the 3rd and 4th respondents to approve forthwith the appointment of P.Vijitha as Sewing Mistress in the petitioner's school w.e.f. 08.06.2017 with all attendant benefits including the arrears of salary and allowance.



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For Petitioner : Ms.M.F.Rooshi Maas
for M/s.Isaac Chambers

For Respondents : Mr.T.Amjadkhan

Government Advocate

ORDER

The petitioner has filed this Writ Petition seeking for a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 4th respondent District Educational Officer in Na.Ka.No.4573/Aa2/ 2019 dated 03.10.2020 and the proceedings of the DEO in Na.Ka.No.810/Aa2/2021 dated 02.08.2021 quash the same and further direct the 3rd and 4th respondents to approve forthwith the appointment of P.Vijitha as Sewing Mistress in the petitioner's school w.e.f. 08.06.2017 with all attendant benefits including the arrears of salary and allowance.

2. Heard Ms.M.F.Rooshi Maas, learned counsel representing for M/s.Isaac Chambers for the petitioner and



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Mr.T.Amjadkhan, learned Government Advocate for the respondents 1 to 4.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. The petitioner-school has appointed one P.Vijitha as a Sewing Teacher on 08.06.2017. Thereafter, the proposal was sent to the Government for approval and the same was pending. Subsequently, the petitioner filed a Writ Petition seeking direction to consider the proposals sent by the Government and pass orders by the respondents. Consequently, an order has been passed on 03.10.2020 stating that the petitioner school comes under the Corporate Management administered by the Syro Malabar Catholic Diocese of Thuckalay, under which there was a surplus post and hence, the approval was rejected.

5. The petitioner preferred an appeal challenging the



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said order before the District Educational Officer, which has also been rejected stating that as per G.O.(Ms)No.165 dated 17.09.2019 wherever there are surplus posts available for the schools coming under the Corporate management, the said posts have to be deployed before making any fresh appointments.

6. But the learned counsel for the petitioner submitted that as per the settled decision of this Court dated 31.03.2021 in W.A.(MD)No.76 of 2019 etc., batch, the above G.O.(Ms)No.165 is not applicable to the case of the petitioner.

7. When similar issue came up for consideration before this Court in W.P(MD)No.7479 of 2024 dated 17.04.2024, the following order has been passed :

“5. The learned counsel for the petitioner also submitted that the Government Order in G.O.Ms.No.165 dated 17.09.2019 has been kept inoperative in W.A.(MD).No.76 of 2019 batch dated 31.03.2021 in the case of The Secretary to



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***Government Government of Tamil Nadu School
Education Department, Fort St. George, Chennai
– 9 vs Iruthaya Amali and the relevant portion of
the order is extracted hereunder:***

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

.....

*(o) In view of the aforesaid, the
G.O.Ms.No.165, School Education
[Tho.Ka.2(1)] Department, dated
17.09.2019 is hereby declared to be
inoperative.”*

*6. The petitioner's appointment has been
made prior to the order dated 31.03.2021 passed in
W.A.(MD).No.76 of 2019 batch. Hence, the
petitioner School gets the advantage of getting
approval of the appointment of Sunitha as
B.T.Assistant Maths. Therefore, the respondents
cannot decline the approval of the appointment for
the reasons of TET eligibility or for deployment of
the alleged surplus.*



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*7. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned order dated 08.09.2020 is set aside. The respondents 3 and 4 are directed to consider and pass orders regarding approval of appointment of Sunitha as B.T.Assistant Maths with effect from 01.08.2017. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.”*

8. In view of the above stated reasons and the decision rendered by this Court in the aforesaid Writ Appeal and Writ Petition, this Writ Petition is **allowed** and the impugned proceedings of the 4th respondent dated 03.10.2020 and 02.08.2021 are set aside. The respondents 3 and 4 are directed to consider and pass orders regarding approval of appointment of P.Vijitha as Sewing Mistress in the petitioner's school with effect from 08.06.2017. The said exercise shall be completed within a period of



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eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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

RM



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To
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State of Tamil Nadu
Department of School Education,
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- 2.The Director of School Education,
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R.N.MANJULA, J.

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