



W.P.(MD).No.12411 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.12411 of 2024
and WMP(MD) Nos.10992 & 10993 of 2024

D.Amutha

... Petitioner

Vs

1. The Chief Educational Officer,
Virudhunagar, Virudhunagar District.
2. The District Educational Officer (Secondary),
Virudhunagar, Virudhunagar District.
3. The Secretary,
Devangar Higher Secondary School,
Chokkalingapuram, Aruppukottai 626 101,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling the records relating to the 3rd respondent impugned call for notification dated 06.06.2024 published in Dhinakaran Tamil Daily in so far as to the appointment of Post Graduate Teacher, Commerce and quash the same as illegal and consequently direct the respondents No.1 to 3 to consider the petitioner for promotion to the post of Post Graduate Teacher (Commerce).



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For Petitioner : Mr. R.Murali

For Respondents : Mr.T.Amjadkhan (R1,R2)
Government Advocate
Mr.G.Prabhu Rajadurai (R3)

ORDER

Heard Mr.R.Murali, learned counsel for the petitioner, Mr.T.Amjadkhan, learned Government Advocate, for respondents 1 & 2 and Mr.G.Prabhu Rajadurai, learned counsel for respondent No.3.

2.The petitioner, who has filed this writ petition challenging the 3rd respondent's impugned notification, dated 06.06.2024 published in Dhinakaran Tamil Daily in so far as to the appointment of Post Graduate Teacher, Commerce and consequently to direct the respondents No.1 to 3 to consider the petitioner for promotion to the post of Post Graduate Teacher (Commerce).

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

4. The learned counsel for the petitioner submitted that the petitioner is working as a Secondary Grade Teacher in the 3rd respondent



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School, which is an Aided Minority Institution. The 3rd respondent School is now attempting to recruit PG Assistant (Commerce) by way of direct recruitment. The petitioner is aggrieved in view of the fact that though she is qualified to the said post, the 3rd respondent without considering the scope for promotion to the in-service candidates and in violation of Section 28(2) of the Tamil Nadu Private Schools (Regulation) Act, 2018 is attempting to fill up the vacancy through direct recruitment.

5. The learned counsel for the 3rd respondent submitted that earlier in batch of writ petitions before the Division Bench challenging the Tamil Nadu Private Schools (Regulation) Act, 2018 and the rules framed in the year 2023, the Division Bench has ordered to maintain status-quo as on date. In the above referred Judgment, dated 17.12.1975 in W.P.Nos.4478 of 1974, etc., batch of cases [The Society of the Brothers of the Sacred Heart of Jesus, Palayamkottai, Tirunelveli District, by Rev. Br.N.S.Jesudoss, SHJ, General Manager and another v. The State of Tamil Nadu represented by the Secretary to Government, Education Department, Fort St. George, Madras - 9, it is learnt that the Division Bench has struck down the provision of Section 73 as inapplicable to the minority institution. As the inapplicability so held is



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inclusive of the analogous provision to present Rule 28(2) to the then 15(4) the same condition needs to be maintained until a decision is arrived at in the Batch of writ petitions pending before the Division Bench in W.P.No.10711 of 2023 etc., Batch.

7.However, the learned counsel for the petitioner submitted that by taking advantage of the above status-quo, the third respondent School shall not continue the process of selection by declaring the names of the candidates themselves even before the recruitment is started. If the petitioner is so aggrieved, then the only course open to him is to challenge the appointment order issued if any by violating the modus of recruitment. If the petitioner intends, she can apply to the post called for by the 3rd respondent School and there is no bar to participate in the selection.

8. With the above directions, this writ petition is disposed of. No costs. Consequently connected miscellaneous petitions are closed.

13.06.2024

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



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R.N.MANJULA, J.

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