



WP(MD) No.13003 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.13003 of 2023
and WMP(MD)Nos.11011 & 11012 of 2023

The Correspondent,
St.Xavier's Higher Secondary School,
Palayamkottai-627 002,
Tirunelveli District.

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Higher Education,
Fort St.George,
Chennai- 600 009.

2. The Director of School Education,
College Road,
Chennai- 600 006.

3. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

4. The District Educational Officer,
Tirunelveli,
Tirunelveli District.

...Respondents



WP(MD) No.13003 of 2023

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent District Educational Officer in O.Mu.No.673/A2/2021 dated 29.12.2021 quash the same, and further direct the 3rd respondent CEO to approve forthwith the appointment of S.Arockia John Xavier as BT Assistant (Tamil) in the petitioner-school w.e.f., 01.12.2020, with all attendant benefits including arrears of salary.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed this writ petition seeking Writ of Certiorarified Mandamus, to quash the impugned proceedings passed by



WP(MD) No.13003 of 2023

WEB COPY

the 4th respondent District Educational Officer in O.Mu.No. 673/A2/2021 dated 29.12.2021 and further direct the 3rd respondent CEO to approve forthwith the appointment of S.Arockia John Xavier as BT Assistant (Tamil) in the petitioner-school with effect from 01.12.2020, with all attendant benefits including arrears of salary.

3. The petitioner School appointed one S.Arockia John Xavier as BT Assistant (Tamil) with effect from 01.12.2020 on account of retirement of the then incumbent namely, Mr.S.Jesuraj. When the proposal was sent by the petitioner School for approval of appointment of the said S.Arockia John Xavier to the fourth respondent, the same was returned vide impugned proceedings dated 29.12.2021(signed on 03.01.2022) stating that there are 15 surplus posts of BT Assistant (Tamil) in the Tirunelveli Revenue District and after deploying all the surplus Teacher posts, the appointment of the said S.Arockia John Xavier as BT Assistant (Tamil) in the petitioner School can be approved.



WP(MD) No.13003 of 2023

WEB COPY

4. The petitioner School is an aided minority institution and comes under the same Management. However, the impugned order does not state that the Corporate Management under which the School is governed, there are surplus posts in the cadre of BT Assistant(Tamil). But the reason stated in the impugned order is that there are surplus 15 BT Assistant (Tamil) Teachers available in the whole of the Tirunelveli District for the academic year 2019-2020.

5. Since the petitioner School is an aided minority institution and the appointments can be made by such institutions as per their preference, the respondents ought to have considered whether any surplus is available in the same Corporate Management. If there is no surplus available in the same Corporate Management, then the respondents are obligatory to approve the appointment of the said S.Arockia John Xavier as BT Assistant (Tamil) without citing the surplus available in the entire District.



WP(MD) No.13003 of 2023

WEB COPY

6. Further, the appointment of the petitioner was made on 01.12.2020 which is prior to the judgment *dated 31.03.2021* rendered in the case of *Secretary to Government and others Vs Iruthaya Amali and another (W.A.(MD)No.76 of 2019)*, by framing guidelines as to how the surplus in the School coming under the same Corporate Management should be dealt.

7. Since the appointment has been made even prior to passing of the said judgment, nothing would prevent the respondents from giving approval to the appointment of the petitioner.

8. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned order passed by the 4th respondent in O.Mu.No.673/A2/2021 dated 29.12.2021 is set aside. The respondents 3 and 4 are directed to consider the proposal sent by the petitioner School with regard to approval of appointment of the said S.Arockia John Xavier as BT Assistant (Tamil) with effect from 01.12.2020, if the proposal is otherwise in order and pass orders, within a period of four



WP(MD) No.13003 of 2023

WEB COPY

weeks from the date of receipt of a copy of this order. No costs.

Consequently, connected miscellaneous petition is closed.

21.06.2024

Index : Yes / No

NCC : Yes / No

PJL

To

1. The Secretary,
State of Tamil Nadu,
Department of Higher Education,
Fort St.George,
Chennai- 600 009.

2. The Director of School Education,
College Road,
Chennai- 600 006.

3. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

4. The District Educational Officer,
Tirunelveli,
Tirunelveli District.



WEB COPY



WP(MD) No.13003 of 2023

R.N.MANJULA, J.

PJL

W.P.(MD)No.13003 of 2023
and WMP(MD)Nos.11011 &
11012 of 2023

21.06.2024