



W.P.(MD)No.14961 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.14961 of 2022 &
W.M.P.(MD)Nos.10713 & 10714 of 2022

R.Poongodi

... Petitioner

vs.

1.The State of Tamil Nadu
Represented by its Secretary to Government
Education Department
Chennai - 600 009.

2.The Director of School Education,
D.P.I. Buildings,
College Road,
Chennai - 600 006.

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

4.The District Educational Officer,
Virudhunagar,
Virudhunagar District.

5.The Secretary
Ayira Vaisiya Higher Secondary School
Sattur, Virudhunagar District

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the third respondent in Pa.Mu.No. 1627/Aa2/2019 dated 14.03.2022, quash the same and consequently direct the third respondent to approve the petitioner's appointment as Arts Teacher in the fifth respondent School with all consequential monetary benefits.

For Petitioner : Mr.M.Musthafakhan

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R1 to R4

ORDER

Heard Mr.M.Musthafakhan, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 to 4.

2. The petitioner who was appointed as Arts Teacher in the fifth respondent School on 10.12.2018 has filed this petition seeking to quash the impugned order of the third respondent in Pa.Mu.No.1627/Aa2/2019 dated 14.03.2022 and consequently direct the third respondent to approve



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her appointment as Arts Teacher in the fifth respondent School with all consequential monetary benefits.

3. Mr.M.Musthafakhan, learned counsel appearing for the petitioner submitted that though prior permission was given by the third respondent on 01.10.2018 to fill up the above said post, the third respondent has returned the proposal sent for approval of appointment of the petitioner.

4. The third respondent through the impugned order has rejected the proposal for approval of appointment of the petitioner stating that as per the interim order passed by the Principal Seat of this Court in W.P.No.31575 of 2019 dated 08.11.2019, until the deployment of surplus Teachers in Middle Schools and High Schools run by the Government is completed, there cannot be any recruitment; and that S.L.P.No.22575 of 2021 pending before the Hon'ble Supreme Court with regard to the surplus Teachers issue.



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5. To be noted, though the approval of appointment of the petitioner was rejected based on the interim order passed in W.P.No. 31575 of 2019 on 08.11.2019, the said writ petition was subsequently tagged along with W.A.(MD)No.76 of 2019 and batch and this Court by Judgment in ***W.A.(MD).No.76 of 2019 batch dated 31.03.2021*** in the case of ***The Secretary to Government Government of Tamil Nadu School Education Department, Fort St. George, Chennai – 9 vs. Iruthaya Amali [Iruthaya Amali's case]*** has declared the Government Order in G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department, dated 17.09.2019 to be inoperative. 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.”



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7. Furthermore, the petitioner was appointed on 10.12.2018 itself, which is much prior to the issuance of the Government Order in G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department, dated 17.09.2019. The above mentioned Government Order mandating the surplus posts to be deployed before appointing any new appointees has come into force only from 17.09.2019, irrespective of whether the School is aided minority School or non-minority School. Since the petitioner claims that he was appointed on 10.12.2018 much prior to the issuance of the above mentioned Government Order, the third respondent ought not have rejected the proposal for approval of the petitioner's appointment *citing* various litigations that have arisen at a later point of time.

8. In view of the above stated reasons, the writ petition is **allowed** and the impugned order of the third respondent in Pa.Mu.No. 1627/Aa2/2019 dated 14.03.2022 is quashed. The fifth respondent School is directed to re-submit the proposal with regard to the appointment of the petitioner as Arts Teacher in their School on 10.12.2018 within a period of two weeks from the date of receipt of a



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copy of this order and on receipt of the same, the third respondent is directed to pass orders to approve the appointment of the petitioner, if she is otherwise found eligible and also to grant consequential monetary benefits within a period of four weeks thereafter. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.06.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
mbi

To

- 1.The Secretary to Government
Education Department
Chennai - 600 009.
- 2.The Director of School Education,
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College Road,
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- 3.The Chief Educational Officer,
Virudhunagar District,
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R.N.MANJULA, J.

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