



W.P.(MD).No.14306 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.14306 of 2024

and

W.M.P.(MD)Nos.12559 and 12560 of 2024

The Correspondent,
SPG Mission Elementary School,
Sengaraiyur,
Lalgudi Taluk,
Trichy District – 621 702.

...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 – 600 006.

3.The District Educational Officer,
Musiri, Trichy District – 621 211.

4.The Block Educational Officer,
Lalgudi, Trichy District – 621 601.

... Respondents



W.P.(MD).No.14306 of 2024

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 proceedings issued by the third respondent District Educational Officer in Na.Ka.No. 0281/A2/2022 dated 21.03.2024, quash the same and further direct the third respondent DEO to approve forthwith the appointment of J.Jenitha as Secondary Grade Teacher in the petitioner School with effect from 23.07.2014 with salary, allowances and all attendant benefits including arrears of salary.

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

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mr.K.Ragatheesh Kumar, learned counsel, for M/s.Isaac Chambers, appearing for the petitioner and MrT.Amjadkhan, learned Government Advocate for the respondents.

2. This Writ Petition has been filed seeking to quash the order of the third respondent dated 21.03.2024 and further direct the third respondent DEO to approve forthwith the appointment of J.Jenitha as



W.P.(MD).No.14306 of 2024

Secondary Grade Teacher in the petitioner School with effect from 23.07.2014 with salary, allowances and all attendant benefits including arrears of salary.

3. Mr.K.Ragatheesh Kumar, learned counsel for the petitioner submitted that the reason for rejecting the appointment of one Jenitha for appointment as Secondary Grade Teacher with effect from 23.07.2014 is that during the relevant point of time, there were surplus in the corporate management in which the School is coming under.

4. The petitioner School vide order dated 19.07.2014 has appointed one J.Jenitha as Secondary Grade Teacher with effect from 23.07.2014. Earlier, the appointee herself has filed a Writ Petition in W.P.(MD)No.2921 of 2020 seeking direction to consider the proposal for approving her appointment and in which directions have been passed on 29.06.2022. Only in consequence thereof, the present impugned order dated 21.03.2024 has been passed by stating that at the relevant point of time there were surplus posts available in the Corporate Management. In fact, in the earlier order dated 29.06.2022 itself, the learned Single Judge has dealt at length by extracting the relevant portion of the judgment



W.P.(MD).No.14306 of 2024

rendered in the case of ***B.Kurinjimalaron Vs State of Tamil Nadu*** and held that the petitioner is entitled for getting approval and to that effect, a positive direction had also been given. Despite that, the respondents have invented their own reason to reject the approval by beating around the same bush.

5. Time and again, it has held in various judgments that the applicability of surplus post to the Corporate Management has been held in ***Iruthaya amali's*** case (***W.A.(MD).No.76 of 2019 dated 31.03.2021***), the guidelines have been made in respect of surplus in the Corporate Management. So, all those appointments which have been made consequent to the above order, the respondents are expected to apply the rule of surplus in the Corporate Management. In the instant case, the petitioner's appointment relates back to the year 2014 and that proposal has been sent in the year 2014 itself.

6. Mr.T.Amjadkhan, learned Government Advocate made a reference to the order of the Division Bench dated 20.11.2023 passed in W.A.(MD).No.1104 of 2022. In fact in the judgment rendered in W.A.(MD)No.1104 of 2022 dated 20.11.2023, in the paragraph no.2, the



W.P.(MD).No.14306 of 2024

following issues have been dealt and taken for consideration.

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“2.The following issues are mainly raised in this writ appeal and they are:

(1)The Teachers identified as surplus from minority Institutions (Corporate Management).

(2)Non minority aided Institutions, where the Teachers are identified as surplus in the District concerned.

(3)The Teachers, who were appointed by the minority Institutions and not possessing the requisite educational qualifications of Teacher Eligibility certificate.

(4)Subject conversion and appointments without prior permission.

(5)Single unit schools, where no surplus candidates are identified and posts are sanctioned, but approval not granted.

(6)In respect of cases, where prior permission has been granted but the appointments are not approved.”

7. Even in the discussions part of the judgment, there is no disagreement with the judgment rendered in Iruthaya Amali's case and the proposition laid out therein. In fact, an observation has been made that the said judgment has been challenged before the Hon'ble Supreme Court and the SLP is pending and hence no comment has been made. So far as the surplus is concerned, the Hon'ble Division Bench has not dealt



W.P.(MD).No.14306 of 2024

about the applicability of the rule to any date. Even in paragraph no.2, there is no reference about the applicability of surplus in the Corporate management with reference to any particular date. It is obviously because the said issue has been settled down in the ***Iruthaya Amali's*** case and all those appointments which have been made consequent to the judgment of ***Iruthaya Amali's*** case would only come under the folder of surplus in the Corporate Management.

8. The Special Leave Petition before the Supreme court challenging the ***Iruthaya Amali's*** case is pending, only in respect of paragraph no.95(i) of the order in the Iruthaya Amali's case. The paragraph no.95(i) only relates to the sanction of additional post and it has nothing to do with the principles and guidelines laid out for treating the surplus post in the Corporate Management. So there cannot be any confusion about the applicability of the Division Bench order in W.A. (MD)No.1104 of 2022 dated 20.11.2023 to the facts raised in this case. Since the appointment of the individual namely, Jenitha was made prior to the judgment rendered in Iruthaya Amali's case and positive direction has already been granted in W.P.(MD)No.2921 of 2020, non approval order would amount to contempt only.



W.P.(MD).No.14306 of 2024

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9. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned proceedings of the third respondent in Na.Ka.No. 0281/A2/2022 dated 21.03.2024 is set aside and the matter is remitted back to the third respondent for granting an order of approval to J.Jenitha in view of the observations now made and also taking into consideration the directions already made in this regard and pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

02.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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



W.P.(MD).No.14306 of 2024

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W.P.(MD).No.14306 of 2024

R.N.MANJULA, J.

Nsr

W.P.(MD).No.14306 of 2024

02.07.2024