



WP(MD) No.14078 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.14078 of 2023
and WMP(MD)Nos.11930&11933 of 2023

L.Annie Rubina

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep by its Additional Chief Secretary,
Department of School Education,
Fort St.George, Chennai 9.

2. The Director of School Education,
DPI Campus, College Road,
Chennai 6.

3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
Trichy 620 002.

4. The District Educational Officer,
The Office of the District Educational Officer,
Trichy 620 001.

5. The Correspondent,
Holy Cross Girls Higher Secondary
School, Teppakulam,
Trichy-620 002.

...Respondents



WP(MD) No.14078 of 2023

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings, dated 21.05.2023, in O.Mu.No.00032/A4/2022, on the file of the 4th respondent and quash the same, directing the respondents, to accord approval to the appointment of the petitioner, Ms.L.Annie Rubina, working as B.T. Asst.(Maths) in the 5th respondent, Holy Cross Girls Higher Secondary School, Teppakulam, Trichy, w.e.f. 01.08.2019, and release salary with all monetary and service benefits.

For Petitioner : Mr.S.Savarimuthu
for M/s.Father Xavier Associates

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.S.Savarimuthu, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.



WP(MD) No.14078 of 2023

WEB COPY

2. The petitioner has filed this writ petition seeking Writ of Certiorarified Mandamus, to quash the impugned proceedings, dated 21.05.2023, in O.Mu.No.00032/A4/2022, on the file of the 4th respondent and further direct the respondents, to accord approval to the appointment of the petitioner, Ms.L.Annie Rubina, working as B.T. Assistant (Maths) in the 5th respondent, Holy Cross Girls Higher Secondary School, Teppakulam, Trichy, w.e.f. 01.08.2019, and release salary with all monetary and service benefits.

3. The petitioner has been appointed as BT Assistant (Maths) in the 5th respondent school with effect from 01.08.2019 on account of retirement of the then incumbent namely, Mrs.J.Jenita. When the proposal was sent by the 5th respondent School for approval of appointment of the petitioner to the fourth respondent, the same was returned, directing the School Management to enclose some relevant documents. The 5th respondent School has resubmitted the proposal with suitable reply, which was returned vide impugned proceedings dated 25.03.2022 stating that there are surplus BT Assistant (Maths) in the Tiruchirappalli Revenue District and after deploying all the surplus



WP(MD) No.14078 of 2023

Teacher posts, the appointment of the petitioner can be approved. Again, the School Management resubmitted the proposal by citing the Division Bench order in ***W.A.(MD)No.76 of 2019 (Iruthaya Amali's case) dated 31.03.2021.*** However, the 4th respondent returned the proposal vide impugned order dated 21.05.2023 without approval for the same reasons.

4. The 5th respondent 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(Maths). But the reason stated in the impugned order is that there are surplus BT Assistant Teachers available in the whole of the District for the academic year 2018-2019 & 2019-2020.

5. Since the 5th respondent 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



WP(MD) No.14078 of 2023

surplus available in the same Corporate Management, then the respondents are obligatory to approve the appointment of the petitioner as BT Assistant (Maths) without citing the surplus available in the entire District.

6. Further, the appointment of the petitioner was made on 01.08.2019 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.00032/A4/2022 dated 21.05.2023 is set aside. The



WP(MD) No.14078 of 2023

WEB COPY

respondents 3 and 4 are directed to consider the proposal sent by the School with regard to approval of appointment of the petitioner as BT Assistant (Maths) with effect from 01.08.2019, if the proposal is otherwise in order 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 petition is closed.

21.06.2024

Index : Yes / No
NCC : Yes / No
PJL

To

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2. The Director of School Education,
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6/8



WP(MD) No.14078 of 2023

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Holy Cross Girls Higher Secondary
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WEB COPY



WP(MD) No.14078 of 2023

R.N.MANJULA, J.

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