



W.P.(MD).No.15004 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.15004 of 2024
and WMP(MD) Nos.13150 & 13153 of 2024

X.Indra

... Petitioner

Vs

1. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Kanyakumari District, Nagercoil - 629 001.
3. The District Educational Officer (Secondary),
Nagercoil, Kanyakumari District.
4. The Correspondent,
All Saints Higher Secondary School,
Muttom - 629 202, Kanyakumari 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 for the records relating to the impugned proceedings issued by the 2nd respondent Chief Educational Officer in Mu.Mu.No. 4698/A4/2023, dated 14.07.2023 in so far as condition stipulated alone is concerned, and consequent proceedings issued by the 3rd respondent District Educational Officer (Secondary) in O.Mu.No. 6005/A4/2023, dated 10.01.2024, quash the same and further direct the Chief



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Educational Officer to approve the appointment of petitioner as Sewing Mistress w.e.f., 13.07.2023 in the 4th respondent school namely, All Saints Higher Secondary School, Muttom, Kanyakumari District and disburse grant-in-aid towards her salary.

For Petitioner : Mr.S.Xavier Rajini

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

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

2.The petitioner, who has been appointed as a Sewing Teacher in the 4th respondent School on 13.07.2023, has filed this Writ Petition challenging the impugned proceedings issued by the 2nd respondent / Chief Educational Officer in Mu.Mu.No. 4698/A4/2023, dated 14.07.2023 and consequent proceedings issued by the 3rd respondent / District Educational Officer (Secondary) in O.Mu.No. 6005/A4/2023, dated 10.01.2024, and further to direct the Chief Educational Officer to approve the appointment of petitioner



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as Sewing Mistress w.e.f., 13.07.2023 in the 4th respondent School and disburse grant-in-aid towards her salary.

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

4. The petitioner has been appointed as a Sewing Teacher in the 4th respondent School on 13.07.2023. The 4th respondent School has sent a proposal for appointment of petitioner to the second respondent and the same was rejected vide order, dated 10.01.2024 by stating that prior permission is not obtained before appointing the petitioner, in accordance with the proceedings, dated 14.07.2023 of the second respondent. The sum and substance of the issue is that the proposal sent for appointment of petitioner has not been considered for want of getting prior approval from the Government.

5. The learned counsel for the petitioner submitted that since the petitioner's post is a sanctioned post, prior approval is not necessary and hence, the proposal sent for appointment of petitioner cannot be rejected.



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6. My attention was drawn to the staff fixation allotted for the 4th respondent School for the academic year 2023-24, in which, one post of Sewing Teacher has been held surplus. Subsequently, the staff fixation was revised by order of the 2nd respondent, dated 13.01.2023 to the effect of allowing one Sewing Teacher Post to the 4th respondent School.

7. The School, in which, the petitioner was appointed is a minority stand alone institution. The petitioner has been appointed only against a sanctioned post. Even though in the earlier staff fixation order granted to the academic year 2023-24, the post was held as surplus, subsequently, it was amended and the post was retained as a sanctioned post. Hence, prior permission for appointment in the sanctioned post as held to be unnecessary, in view of inoperation of G.O.Ms.No.165, 17.09.2019 as held by this Court in W.A(MD) No.76 of 2019 etc., batch, dated 31.03.2021.

8. In this regard, it is relevant to refer to the earlier similar orders of this Court on similar facts in WP(MD) No.6614 of 2024, dated 10.04.2024, wherein, this Court has held as under:

“5. Since the petitioner is a Minority Institution, they need not seek any prior approval. Further, if the post fell under surplus,



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the petitioner has to get prior approval. However, the third respondent has passed an order stating that fresh appointments cannot be made in view of G.O.Ms.165 dated 17.09.2019.

6. The legal position in respect of G.O.Ms.165 dated 17.09.2019 has been dealt in various orders of this Court and it is held that so far as the appointments made against the sanctioned posts for private aided schools, the Government Order in G.O.Ms. 165 dated 17.09.2019 has got no application. It is not in dispute that the post for which the said V.Bable Vijila has been appointed is a sanctioned post. There is no question of prior permission since G.O.Ms.165 dated 17.09.2019 is inoperative by virtue of the judgment of the Division Bench rendered in W.A.(MD)No.76 of 2019 & batch and the same has been followed in various other orders of this Court including the orders passed in similar such cases involved in W.P.No.1307 & 18248 of 2021, W.P.No. 4021/2023 and W.P.No.16698/2012.”

9. Since the issue involved in this case is as similar as that of the issue that has arisen in the above dealt cases, where direction has been given to the respondents to consider the proposal of the petitioner and grant approval, this writ petition should also be allowed in similar line.

10. In the result, this writ petition is disposed of with a direction to the second respondent to reconsider the proposal/representation, dated



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27.07.2023 sent by the 4th respondent/petitioner's School to approve the appointment of the petitioner to the post of Sewing Teacher with effect from 13.07.2023, with all consequential and attendant benefits and pass appropriate orders afresh in accordance with law, 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.

08.07.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

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College Road, Chennai - 600 006.
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Kanyakumari District, Nagercoil - 629 001.
3. The District Educational Officer (Secondary),
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4. The Correspondent,
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R.N.MANJULA, J.

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ORDER IN
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