



W.P.(MD)No.15536 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.15536 of 2024
and
W.M.P.(MD).No.13597 of 2024

Sr.Leema

... 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,
Madurai - 625 002.
- 4.The District Educational Officer,
the Office of the District Educational Officer,
Melur,
Madurai - 625 002.



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5.The Correspondent,
Nirmala Girls Higher Secondary School,
161, Kamarajar Salai,
Madurai - 625 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings, dated 02.04.2024 in O.Mu.No.1599/AA1/2024, on the file of the 4th respondent and quash the same in respect of the petitioner and directing the respondents to approve the appointment of the petitioner, Sr.r, working as P.G. Assistant (Tamil) in Nirmala Girls Higher Secondary School, 161, Kamarajar Salai, Madurai - 625 009, w.e.f. 03.10.2023, with all service benefits.

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

For R-1 to R-4 : Mr.T.Amjadkhan,
Government Advocate

ORDER

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

2. Heard Mr.S.Savarimuthu, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondent Nos.1 to 4.



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3. The petitioner has filed this Writ Petition challenging the impugned order of the fourth respondent, dated 02.04.2024.

4. The petitioner was appointed as a P.G Assistant (Tamil) in view of the vacancy arose due to the transfer of the incumbent to some other place in the same management. When the appointment proposal was sent to the fourth respondent, the same got rejected stating that as per Section 35(2) Rule r/w 33 (2)(b) of the Tamil Nadu Private Schools (Regulation) Rules, 2023, dated 13.01.2023, the prior permission for approval of appointment of teaching staff in the cadre of Post Graduate Assistants should be obtained.

5. Mr.S.Savarimuthu, learned counsel appearing for the petitioner submitted that the said Rule is not applicable to the minority institutions and the alteration of the Rule contemplates that the regulations would be applicable to the non minority institution. Reliance was placed on the earlier judgment rendered by this Court in W.P.(MD).No.15004 of 2024, dated 08.07.2024 and the relevant portions in the said judgment are extracted hereunder:

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



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post fell under surplus, 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 27.07.2023 sent by the 4th respondent/petitioner's School to approve the



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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.”

6. Since the issue involved in this case is a similar as that of the issue that has arisen in the above case, 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 lines.

7. In the result, this writ petition is **disposed of** with a direction to the fourth respondent to reconsider the proposal/representation, dated 24.11.2023 sent by the fifth respondent/petitioner's School to approve the appointment of the petitioner to the post of P.G. Assistant (Tamil) with effect from 03.10.2023, 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.

11.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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To

- 1.The Additional Chief Secretary,
the Government of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai 9.
- 2.The Director of School Education,
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- 3.The Chief Educational Officer,
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R.N.MANJULA, J.

TSG

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