



WP(MD) No.16703 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.16703 of 2024

and

W.M.P.(MD)Nos.14456 & 14458 of 2024

The Correspondent,
St. Ignatius Convent Higher Secondary School,
Palayamkottai – 627 002.
Tirunelveli District.

... Petitioner

Vs.

- 1.The Director of School Education,
College Road, Chennai – 600 006.
- 2.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 3.The District Educational Officer,
Tirunelveli, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd



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respondent DEO in Oo.Mu.No. 2187/Aa4/2021 dated 20.01.2022, Quash the same, and further direct the 2nd and 3rd respondents to approve forthwith the appointment of Sr. A. Sahaya Teslin as BT Assistant (English) in the petitioner school w.e.f. the date of her appointment viz., 10.09.2019, with salary and all attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar

For Respondents : Mr.T.Amjad Khan

Government Advocate

ORDER

The petitioner has filed this Writ Petition challenging the impugned proceedings issued by the third respondent in Oo.Mu.No. 2187/Aa4/2021 dated 20.01.2022, returning the approval for appointment of one Sr.A.Sahaya Teslin as BT Assistant (English), with consequential direction to the second and third respondents to approve the appointment of the said Sr.A.Sahaya Teslin as BT Assistant (English) forthwith in the petitioner school w.e.f. the date of her appointment viz., 10.09.2019, with salary and all attendant benefits.



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5. The petitioner had challenged the aforesaid order by preferring a writ petition before this Court in WP(MD)No.8049 of 2020, wherein, the order passed by the third respondent dated 28.10.2020 was set aside. Therefore, the proposal was again sent by the petitioner school, which was returned citing the pending Special Leave Petition before the Hon'ble Supreme Court in respect of surplus position. Hence, the petitioner has filed this writ petition.

6. The approval of appointment in the private aided school coming under the same corporate management as that of the petitioner's school has already been settled in the decision of this Court 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***, holding that if any appointment was made against the sanctioned post prior to 31.03.2021, the Education Department was directed to approve the appointment in the Corporate Management Schools and the same was upheld by the Hon'ble Supreme Court of India. Hence, there



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cannot be any hurdle for the respondents to approve the appointment of the said Sr.A.Sahaya Teslin.

7. In the instant case, it appears that the appointment itself has been made on 10.09.2019, even prior to the date of the decision of this Court dated 31.03.2021 in *Iruthaya Amali case supra*. Since the question of surplus in the management has been dealt with in *Iruthaya Amali case supra*, the guidelines have been given effect prospectively. Since the appointment has been made even prior to the date of Judgment, there cannot be any legal issues for according approval to the petitioner's appointment.

8. When similar issue came up for consideration before this Court in W.P(MD)No.7479 of 2024 dated 17.04.2024, the following order has been passed :

“5. The learned counsel for the petitioner also submitted that the Government Order in G.O.Ms.No.165 dated 17.09.2019 has been kept inoperative in W.A.(MD).No.76 of 2019 batch dated 31.03.2021 in the case of The Secretary to



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***Government Government of Tamil Nadu School
Education Department, Fort St. George,
Chennai – 9 vs Iruthaya Amali and 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.”*

*6. The petitioner's appointment has been
made prior to the order dated 31.03.2021 passed
in W.A.(MD).No.76 of 2019 batch. Hence, the
petitioner School gets the advantage of getting
approval of the appointment of Sunitha as
B.T.Assistant Maths. Therefore, the respondents
cannot decline the approval of the appointment
for the reasons of TET eligibility or for
deployment of the alleged surplus.*

*7. In view of the above stated reasons, this
Writ Petition is **allowed** and the impugned order*



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dated 08.09.2020 is set aside. The respondents 3 and 4 are directed to consider and pass orders regarding approval of appointment of Sunitha as B.T.Assistant Maths with effect from 01.08.2017. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.”

10. The petitioner’s appointment has been made prior to the order dated 31.03.2021 passed in W.A.(MD).No.76 of 2019 batch. Hence, the petitioner can get the advantage of getting approval of the appointment as BT Assistant (English) in the petitioner school. Further, the impugned proceedings has been returned, not rejected. Hence, the petitioner is at liberty to represent the same and request for approval.

11. In view of the aforestated reasons and the decision rendered by this Court in the aforesaid Writ Appeal and Writ Petition, this Writ Petition is allowed. The respondents are directed to consider and pass orders regarding approval of appointment of one Sr. A. Sahaya Teslin as BT Assistant (English) in the petitioner school in the light of the above



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observations. The said exercise shall be completed 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.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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R.N.MANJULA, J.

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Order made in
W.P.(MD)No.16703 of 2024

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