



WP(MD) No.17630 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.17630 of 2024

and

W.M.P.(MD)No.15135 of 2024

Sr.Esther

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Represented by its Additional Chief Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.
- 2.The Director of Elementary Education,
Dpi Campus, College Road,
Chennai-600 006.
- 3.The District Educational Officer,
The Office of the District Educational Officer,
Sivagangai Park Campus,
Seenivasapuram Road,
Thanjavur - 613 001.
- 4.The Block Educational Officer,
The Officer of the Block Education Officer,
Sengipatti Road, Budalur - 613 602,
Thanjavur District.



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5.The Correspondent,
Sinna Rani Aided Primary School,
Alamelupuram, Poondi - 613 105,
Thanjavur 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 pertaining to the impugned proceedings dated 10.07.2024, in Na.Ka.No.0386/AA2/2022, on the file of the 3rd respondent and quash the same in respect of the petitioner, directing the respondents to approve the appointment of the petitioner Sr.S.Esther, working as Secondary Grade Assistant, in Sinna Rani Aided Primary School, Alamelupuram, Poondi - 613 105, Thanjavur District, w.e.f. 02.07.2018, with all service benefits.

For Petitioner : Mr.S.Savarimuthu
for M/s.Father Xavier Associates
For Respondents : Mr.M.Siddharthan (R1 to R4)
Additional Government Pleader

ORDER

The petitioner has filed this Writ Petition challenging the impugned proceedings dated 10.07.2024, in Na.Ka.No.0386/AA2/2022, on the file of the 3rd respondent with a consequential direction to the



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respondents to approve the appointment of the petitioner, Sr.S.Esther, working as Secondary Grade Assistant, in Sinna Rani Aided Primary School, Alamelupuram, Poondi - 613 105, Thanjavur District, w.e.f. 02.07.2018, with all service benefits.

2. Heard the learned counsel on either side.

3. The petitioner was appointed as the Secondary Grade Teacher in the fifth respondent minority school on 02.07.2018 due to the retirement of one X.Jebamalai on attaining the age of superannuation on 30.06.2018 and a proposal was sent for approval of her appointment and the same was rejected stating that the petitioner does not have TET eligibility and when the appointment is made by the school falling under the Corporate Management, the surplus available in other school coming under the same management are to be deployed.

5. The learned counsel appearing for the petitioner submitted that there was no surplus, as far as the fifth respondent Corporate Management is concerned and what is mentioned in the impugned order



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is about some management, which has got no relevance to the fifth respondent management, who had appointed the petitioner.

6. The requirement of TET eligibility for appointment to be made in the minority management has already been settled in various pronouncements of this Court, one of which, 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 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.”



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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 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.”*

7. Hence, it is unfair on the part of the respondents to require TET eligibility contrary to the legal position that has been already settled.



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8. Insofar as other objection with regard to surplus available in the same management, the learned counsel appearing for the petitioner has stated that the fifth respondent management is different from that of the corporate management, the same has not been established and there cannot be any hurdle in approving the appointment of the petitioner on the proposal sent by the fourth respondent.

9. In view of the above stated reasons, this Writ Petition is allowed. The respondents are directed to consider and pass orders approving the appointment of the petitioner in the fifth respondent school. 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 petition is closed.

31.07.2024

NCC: Yes/No
Index : Yes/No
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R.N.MANJULA, J.

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Order made in
W.P.(MD)No.17630 of 2024

31.07.2024