



WP(MD) No.18586 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.08.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.18586 of 2024

and

W.M.P(MD)Nos.15783 & 15784 of 2024

The Correspondent

Holy Family Higher Secondary School,

Mukkutukal - 629 151,

Kanyakumari District.

... Petitioner

Vs.

1.The State of Tamil Nadu

Represented by its Secretary,

Department of School Education,

Fort St. George,

Chennai - 600 009.

2.The Director of School Education,

College Road,

Chennai - 600 009.



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3.The Chief Educational Officer
Kanyakumari at Nagercoil
Kanyakumari District.

4.The District Educational Officer,
Marthandam,
Kanyakumari 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 4th respondent District Educational Officer in Oo.Mu.No.5238/Aa3/ 2021 dated 30.03.2022 quash the same and further direct the 4th respondent District Educational Officer to approve forthwith the appointment of E.Girija as Sewing Mistress in the petitioner's school w.e.f. 01.02.2020 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For Respondents : Mr.T.Amjadkhan
Government Advocate



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ORDER

The petitioner has filed this Writ Petition seeking for a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 4th respondent District Educational Officer in Oo.Mu.No.5238/Aa3/ 2021 dated 30.03.2022 quash the same and further direct the 4th respondent District Educational Officer to approve forthwith the appointment of E.Girija as Sewing Mistress in the petitioner's school w.e.f. 01.02.2020 with all attendant benefits including the arrears of salary and allowance.

2. Heard Mr.K.Ragatheesh Kumar, learned counsel representing for M/s.Isaac Chambers for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents.

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

4. The petitioner-school has appointed one E.Girija as a



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Sewing Teacher on 01.02.2020. Thereafter, the petitioner-school sent a proposal on 17.09.2020 to the fourth respondent for approval of the appointment of said Girija as Sewing Mistress w.e.f., 01.02.2020. Subsequently, the fourth respondent vide proceedings dated 30.03.2022 declined to give approval stating that interim stay for fresh appointment of Secondary Grade Teacher and B.T Assistants are given in the order of the Court passed in W.A.(MD)Nos.76 of 2019 etc., batch dated 31.03.2021. Thereafter, the petitioner school resubmitted the proposal to the fourth respondent on 27.03.2024. Again on 10.07.2024, the petitioner school submitted a reminder. On enquiry, the petitioner was orally informed that in view of the earlier order, dated 30.03.2022 rejecting the approval of appointment of E.Girija the proposal will not be considered again and hence, the petitioner has filed this present writ petition.

5. The learned counsel for the petitioner submitted that as per the settled decision of this Court dated 31.03.2021 in W.A.(MD)No. 76 of 2019 etc., batch, the above G.O.(Ms)No.165 is not applicable to the case of the petitioner.



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6. 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 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



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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. In view of the above stated reasons and the decision rendered by this Court in the aforesaid Writ Appeal and Writ Petition, this Writ Petition is **allowed** and the impugned proceedings of the 4th respondent, dated 30.03.2022 is set aside. The fourth respondent is directed to consider and pass orders regarding approval of appointment of E.Girija as Sewing Mistress in the petitioner's school with effect from



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01.02.2020. 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.

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

RM



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To
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Department of School Education,
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R.N.MANJULA, J.

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