



W.P.(MD)No.19481 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2024

**CORAM:
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.19481 of 2024

T.Muthuselvi

.....Petitioner

Vs.

1.The Director of Elementary School Education
D.P.I.Compound
College Road
Chennai

2.The District Educational Officer (Elementary)
Tirunelveli District
Tirunelveli

3.The Block Educational Office -III
Manur Range
Manur
Tirunelveli District

4.The Correspondent
TDTA Primary and Middle School
South Kattarankulam
Palayamkottai
Tirunelveli District



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5.The Chief Educational Officer
Tirunelveli District

.....Respondents

(R5 is suo motu impleaded)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the 2nd & 3rd respondents to approve the appointment of the petitioner as secondary grade teacher in the 4th respondent school from the date of appointment ie.from 01.03.2019 and disburse all service & monetary benefits forthwith.

For Petitioner	: Mr.S.Chellapandian
For Respondents	: Mr.T.Amjadkhan Government Advocate for R1 to R3
	:Mr.P.P.Alwin Balan for R4

ORDER

The instant writ petition has been filed by a Secondary Grade Teacher appointed to the fourth respondent School seeking a mandamus to approve her appointment with effect from 01.03.2019.

2.According to the learned counsel for the writ petitioner, as per staff fixation order for the academic year 2018-2019 issued on 21.05.2019, three posts have been sanctioned in the Secondary Grade Teacher cadre and only out of the



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said three posts, the petitioner has been appointed. He had further contended that the issue of surplus in the corporate management can be raised as a defence by the respondent authority only after the judgment of the Hon'ble Division Bench in WA(MD).No.76 of 2018 dated 31.03.2021. He had further contended that the fourth respondent institution being a minority institution, a pass in Teachers Eligibility Test examination is not mandatory.

3.The learned Government Advocate appearing for the respondents herein by relying upon the counter contended that there are surplus teachers in the corporate management not only in the academic year 2018-2019 but also in the previous academic year. However, without effecting deployment, the petitioner has been appointed. He had further contended that the petitioner has not passed TET examination and hence, the question of approving the appointment of the writ petitioner would not arise.

4.I have considered the submissions made on either side and perused the material records.

5.It is not in dispute that the fourth respondent institution is a minority institution run by a corporate management. Since it is a minority institution as per Paragraph No.74(c) of the Division Bench judgment reported in **2023-3- L.W.**



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112 (The Director of School Education, D.P.I Campus, College Road, Chennai and others Vs. M.Velayutham and another), a pass in Teacher Eligibility Test examination is not mandatory for being appointed as a teacher in a minority institution. Therefore, such a contention cannot be raised by the authorities.

6.As per the objection raised by the authorities relating to surplus Secondary Grade Teachers in corporate management is concerned, only after the judgment of the Hon'ble Division Bench in WA(MD).No.76 of 2018 dated 31.03.2021, the staff strength in all the Schools falling within the corporate management were aggregated and surplus teacher was directed to be found.

7. Till the judgment was pronounced by the Hon'ble Division Bench in WA.No.76 of 2019, G.O.Ms.No.525, Education Department dated 29.12.1997 was holding the field. A perusal of the said G.O reveals that there is no scope for aggregating all Schools falling within the corporate management to find out the surplus teachers. Therefore, if any appointment that is made prior to 31.03.2021, the authorities cannot raise the issue of surplus in the corporate management. In such circumstances, the objection raised by the respondent authorities in the counter are not legally sustainable. Therefore, the respondent authorities are directed to approve the appointment of the writ petitioner with effect from



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01.03.2019 within a period of 12 weeks from the date of receipt of a copy of this order.

8.The writ petition stands allowed to the extent as stated above. No costs.

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



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