



WEB COPY



W.P.(MD)No.15034 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.15034 of 2018

and

W.M.P.(MD)Nos.13579 & 13580 of 2018

The Correspondent,
St. Joseph's Convent,
Higher Secondary School,
Nagercoil – 624 101.
Kanyakumari District.

: Petitioner

Vs.

1.The Director of School Education,
College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

3.The District Educational Officer,
Nagercoil,
Kanyakumari District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the



W.P.(MD)No.15034 of 2018

records relating to the impugned proceedings issued by the third respondent District Education Officer in O.Mu.No.03931/Aa1/17 dated 18.08.2017, quash the same and further direct the second and third respondents to approve forthwith the appointment of B.Alwin Mercy as B.T. Assistant (Science) in the petitioner's school w.e.f. 08.06.2017 and disburse the grant-in-aid towards her salary and allowances w.e.f. the said date with all attendant benefits.

For Petitioner : Mr.K.Ragatheesh Kumar
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

The point that arises for consideration in this Writ Petition is whether, in case surplus teachers are there in very same corporate management of the petitioner school, the respondents have got the right to reject approval for the appointment of a teacher in the petitioner school where there are no surplus teachers.

2.The law is now well settled as held in the decision of the Division Bench rendered in the case of ***Secretary to Government of Tamil Nadu, School Education Department, Chennai - 9 and others Vs. Iruthaya Amali*** in ***W.A.(MD)No.76 of 2019*** as well as the decision of the Division Bench of this Court dated ***27.08.2024 in***



W.P.(MD)No.15034 of 2018

W.A.(MD)No.1445 of 2024 in the case of **Director of School Education and others Vs. The Correspondent, St. Mary's Tope**

Middle School, Tiruchirappalli, that in cases where appointments are made prior to the date of decision in **Iruthaya Amali case** ie., 31.03.2021 referred to supra, the respondents are having the power to approve the appointment but only in cases where the date of appointment of the teacher is subsequent to 31.03.2021, which is the date of the decision rendered in **Iruthaya Amali case** by the Division Bench of this Court, the approval can be given only when there are no surplus teachers in the very same Corporate Management.

3. Admittedly, in the case on hand, B.Alwin Mercy was appointed by the petitioner as B.T. Assistant [Science] on 08.06.2017 itself much prior to 31.03.2021, which is the cut off date for grant of approval as laid down by the Division Bench judgment of this Court in **Iruthaya Amali case** referred to supra and therefore, the respondents ought to have approved the appointment as sought for by the petitioner school but erroneously the respondents have rejected her appointment under the impugned order.

4. For the foregoing reasons, the impugned order dated 18.08.2017, rejecting the petitioner's request seeking approval for



W.P.(MD)No.15034 of 2018

the appointment of B.Alwin Mercy as B.T. Assistant [Science] in the petitioner school with effect from 08.06.2017 has to be quashed and this Writ Petition will have to be allowed. Accordingly, the impugned order dated 18.08.2017 passed by the third respondent is hereby quashed and this Writ Petition is allowed and the second respondent is directed to approve the appointment of B.Alwin Mercy as B.T. Assistant [Science] in the petitioner school with effect from 08.06.2017 and disburse the eligible grant-in-aid towards her salary and other eligible allowances with effect from the said date within a period of three [3] months from the date of receipt of a copy of this order.

5.Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.09.2024

Index :Yes / No

Internet : Yes / No

NCC : Yes/No

MR



WEB COPY



W.P.(MD)No.15034 of 2018

To

1.The Director of School Education,
College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

3.The District Educational Officer,
Nagercoil,
Kanyakumari District.



WEB COPY



W.P.(MD)No.15034 of 2018

ABDUL QUDDHOSE, J.

MR

W.P.(MD)No.15034 of 2018

27.09.2024