



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN  
AND  
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

**W.A(MD)Nos.409,161 and 162 of 2023  
and  
C.M.P(MD)Nos.2131,2133 and 4442 of 2023**

**W.A(MD)No.409 of 2023**

- 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.
- 3.The Chief Educational Officer,  
Tirunelveli District,  
Tirunelveli.
- 4.The District Educational Officer,  
Valliyoor Educational District,  
Tirunelveli District. ... Appellants/Respondents 1 to 4

.Vs.



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1.G.Grace Selin Rani

...Ist Respondent/Writ Petitioner

2.The Correspondent,  
Concordia Higher Secondary School,  
Vakakkankulam,  
Tirunelveli District.

3.The Correspondent,  
Concordia Higher Secondary School,  
Valliyoar,  
Tirunelveli District.

4.The Honourable Administrator,  
India Evangelical Lutheran Church/IELC-TA  
No.Eldams Road, Teynampet,  
Chennai – 600 018.

...Respondents 2 to 4/Respondents 5 to 7

**W.A(MD)No.161 of 2023**

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.

3.The Chief Educational Officer,  
Tirunelveli District,  
Tirunelveli.

4.The District Educational Officer,  
Cheranmahadevi Educational District,  
Tirunelveli District.

... Appellants/Respondents 1 to 4



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.Vs.

- 1.I.Tracy ...Ist Respondent/Writ Petitioner
- 2.The Correspondent,  
Concordia Higher Secondary School,  
Vakakkankulam,  
Tirunelveli District. ...2<sup>nd</sup> Respondent/5<sup>th</sup> Respondent
- 3.The Honourable Administrator,  
India Evangelical Lutheran Church/IELC-TA  
No.47,Eldams Road, Teynampet,  
Chennai – 600 018. ...Third Respondent

**W.A(MD)No.162 of 2023**

- 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.
- 3.The Chief Educational Officer,  
Tirunelveli District,  
Tirunelveli.
- 4.The District Educational Officer,  
Cheranmahadevi Educational District,  
Tirunelveli District. ... Appellants/Respondents 1 to 4

.Vs.



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1.S.Anita Jasmine

....Ist Respondent/Writ Petitioner

2.The Correspondent,  
Concordia Higher Secondary School,  
Vallioor,  
Tirunelveli District.

...2<sup>nd</sup> Respondent/5<sup>th</sup> Respondent

3.The Honourable Administrator,  
India Evangelical Lutheran Church/IELC-TA  
No.47,Eldams Road, Teynampet,  
Chennai – 600 018.

...Third Respondent

**PRAYER in W.A(MD)No.409 of 2023** Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.8488 of 2021, dated 26.4.2021.

**PRAYER in W.A(MD)No.161 of 2023** Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.8591 of 2021, dated 27.4.2021.

**PRAYER in W.A(MD)No.162 of 2023** Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.8615 of 2021, dated 27.04.2021.

For Appellants  
in all W.As'

: Mr.M.Sarangan  
Additional Govt.Pleader



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For Respondent-1  
in all W.As'

:Mr.Issac Mohanlal  
Senior Counsel  
for M/s.Issac Chambers

For Respondents  
2 and 3 in W.A(MD)  
No.409 of 2023  
and R2 in W.A(MD)  
Nos.161 and 162 of 2023

:Mr.H.Thayunaswamy

### **COMMON JUDGMENT**

(Judgment of the Court was made by **P.VELMURUGAN.,J**)

These Writ Appeals are directed against the order passed by this Court in W.P(MD)Nos.8488, 8591 and 8615, dated 26.04.2021 and 27.04.2021.

2.Since the subject-matter of all these Writ Appeals and the appellants are one and the same, these Writ Appeals are taken up together and this Common Judgement is passed.

3.The Writ Petitioner in W.P(MD)No.8488 of 2021 and the Ist Respondent in the Writ Appeal in W.P(MD)No.409 of 2023 was appointed as P.G. Assistant (Zoology) in the second respondent school and her appointment was approved on 2.10.2001. Subsequently, she was promoted as Headmistress in the above said



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school on 20.07.2015. The second respondent school sent a proposal to the respondents 1 to 4 therein for approval of her promotion on 3.8.2015. Since the respondents 1 to 4 therein failed to pass any order, she has filed a Writ Petition in W.P(MD)No.17404 of 2015 seeking a direction to pass orders on the proposal of the Writ Petitioner and this Court by order, dated 5.3.2018 passed orders directing the respondents to consider the proposal submitted by the second respondent school within a period of four weeks. In the meanwhile, dispute arose between the two rival groups of the school and the principal Bench of this Court appointed the seventh respondent therein as Administrator of IELC. The Principal Bench of this Court, on the litigation initiated by one of the groups, appointed the seventh respondent as Administrator and Administrator also after verifying the records, approved the appointment of the Petitioner with effect from 2.7.2015 by proceedings, dated 17.6.2020. The Headmistress as well as the Administrator sent a proposal to the respondents 3 and 4 therein to approve the appointment by way of promotion as Headmistress to the sixth respondent school on 20.7.2015 and the same was not considered till date. Hence the Writ Petition.

4.The Writ Petitioner in W.P(MD)No.8591 of 2021 and appellant in



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W.A(MD)No.161 of 2023 was appointed as P.G. Assistant (Zoology) in the fifth respondent school with effect from 8.7.2015 and thereafter, the school submitted necessary proposal on 3.8.2015 to the respondents 3 and 4 therein. Since no order was passed on the same, the Petitioner filed W.P(MD)No.17407 of 2015 seeking for a direction to approve the appointment of the Petitioner and this Court by order, dated 5.3.2018 directed the respondents therein to consider the proposal submitted by the fifth respondent school within a period of four weeks from the date of order. Thereafter, dispute arose between rival groups and an Administrator was appointed and the learned Administrator also sent proposal to the third respondent therein Chief Educational Officer to approve her appointment of the Petitioner from the date of initial date of appointment. Since the same was not considered the present Writ Petition is filed.

5.The Petitioner in W.P(MD)No.8615 of 2021 and first respondent in W.A(MD)No.162 of 2023 was appointed as P.G. Assistant (commerce) in the fifth respondent school on 20.7.2015 and the facts are similar to the facts in W.P(MD)No.8591 of 2021. In this case, the Petitioner has filed W.P(MD)No. 17405 of 2025 and this Court also by order, dated 5.3.2015 directed the



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respondents therein to consider the proposal sent by the fifth respondent school; within a period of four weeks from the date of order. As there is dispute between the rival groups, an Administrator was appointed and the learned Administrator also after verifying the documents sent a proposal, dated 17.6.2020 to the third respondent Chief Educational Officer and fourth respondent District Educational Officer requesting them to approve her appointment with effect from her initial date of appointment 20.7.2015. Since the proposal, dated 17.6.2020 to approve her appointment sent by the Headmistress as well as the Administrator was not considered and hence the writ Petition.

6.This Court on hearing the Writ Petitioners and the documents produced on either side, directed the respondents 1 to 4 therein to consider the approval/promotion of the above Petitioners in their respective posts taking into consideration the orders passed by this Court in the respective Writ Petitions and to pass orders approving the appointment of the Petitioner concerned and finally allowed the Writ Petitions. Aggrieved by the same, the State Government as appellants, have filed these Writ Appeals.



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7. The learned counsel for the appellants would submit that the very appointment of the first respondent in W.A(MD)NO.162 of 2023 as P.G. Assistant (Commerce) by V.A.Raj had arose on account of retirement of one C.Bose and in the very same post, one K.Sasi Parimala was appointed by one P.Manuel Yesuraj in the capacity of Correspondent and subsequently, his correspondence was cancelled by the order passed by the Honourable Supreme Court and thereby the appointment made by him become void. The Honourable Administrator appointed by this Court has challenged the approval granted for appointment of V.A.Raj in W.P(MD)No.10071 of 2019 and the said Writ Petition was allowed by order, dated 11.3.2021. As against the same, the said V.A.Raj preferred a Writ Appeal in W.A(MD)NO.1214 of 2021 and the same was also dismissed by the Division Bench of this Court by order, dated 28.6.2021. When the appointment of V.A.Raj itself become automatically void, one Grace Selin Rani preferred a Writ Petition to issue a Writ of Mandamus for promotion to the post of Headmistress and the same was allowed by this Court with a positive direction to grant approval for her appointment. The Department preferred a Writ Appeal. But the very appointment of V.A.Raj itself was quashed and further, the Honourable Administrator is relieved from his office on 31.10.2022. Therefore the



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respondent school was brought under Direct payment. Processing the request of the first respondent and granting approval for her appointment would only open flood gates for others who have not been appointed by competent person. The proceedings of the Honourable Administrator will not give due retrospective effect to the proceedings of the Honourable Administrator will give only prospective effect. If so processing, the proposal for granting approval for the appointment of the first respondent in W.A(MD)No.162 of 2023 retrospectively may not be correct. The Honourable Administrator appointed by this Court to administer IELC does not act as a minority institution and does not have the power to approach the educational authority to approve the appointment with retrospective effect. The Honourable Administrator was appointed only on 31.7.2019 but the first respondent claimed to be working under the same management as P.G. Assistant Commerce with effect from 20.7.2015. But the said management become inoperative from 2012 onwards. At this stage, the question for considering the fresh proposal for granting approval to the appellants and the proposals made by the rival groups should not be possible. In short, the learned counsel for the appellants would submit that since there was dispute between two groups of the corespondent of the school and they also filed a civil suit and the



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same is pending. Therefore the respondent school is brought under the control of direct payment. Therefore neither any person in the rival group and the school or even the Administrator have any authority to either to make appointment or approval when the schools are brought under direct payment.

8.The learned Senior counsel appearing for the first respondent would submit that though the suit was pending and the teachers were working, only for approval the school authority or Administrator approved and sent it for approval of the appellants 3 and 4 and they refused for the same and the first respondent in the Writ Appeals filed the above cited Writ Petitions. The Writ Court considered the entire materials and passed an order. But yet another case in W.A.(MD)No. 1214/2021 was filed against the appellants and the Writ Court set aside the order passed by the appellants and allowed the Writ Petition. Challenging the same, the appellants filed Writ Appeal in W.A(MD)No.1214/2021 and the appellate Court considered the same and dismissed the appeal. The appellants have also approved the appointment of the person in that case by the proceedings of the Chief Educational Officer, dated 22.10.2021. Therefore the appellants cannot not take a different stand and once the claim of similarly placed person was considered by



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the appellants and have also approved the appointment, the same benefit shall be extended to the first respondent and the appellants cannot now take a different stand in these appeals and place reliance on the judgment of the Honourable Apex Court in the case of ***K.C.Bajaj and others .vs. Union of India and others reported in (2014) 3 Supreme Court Cases 777*** and the relevant portion reads as under:

*“28.In view of the above discussion, we hold that the ratio of Digambar Case cannot be invoked to justify the pick and chose methodology adopted by the Union of India in resisting the claim of similarly situated Doctors that NPA payable to them shall be taken into consideration for calculating the pension. Such an approach by the Union of India is ex facie arbitrary, unjust and has resulted in violation of Article 14 of the Constitution.”*

Therefore, the learned senior counsel for the first respondent submitted that the appellants cannot adopt pick and chose method when the claim of the similarly situate persons were considered and implemented.

9.Heard the submissions made on either side and perused the records.

10.Admittedly, the second respondent school in all the writ appeals are



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under the control of the third respondent and admittedly, there was rival claims and dispute between school management and also the school was brought under direct payment and in the meanwhile, the Principal Bench of this Court appoint one retired Judge of this Court MR.JUSTICE D.HARIPARANTHAMAN as Administrator and already the first respondent in all the writ appeals were working as P.G Assistant (Commerce), P.G.Assistant (Zoology) and Headmistress Since their request for approval of appointment was not considered subsequently they filed Writ petitions. In the earlier occasion, one V.A.Raj appointed one Maria Theresa as P.G.Assistant(Tamil) in the vacancy arose on account of retirement of one Prema and one Sasi Parimala was appointed by Manuel in the capacity of correspondent and subsequently, his correspondence was cancelled by the Honourable Apex Court. Thereby the appointment made by him become void. The Administrator appointed by this Court has challenged the approval granted for appointment of V.A.Raj in W.P(MD)No.10171/2021 and this Court was pleased to allow the Writ Petition by order, dated 11.3.2021.As against the said order, Mr.V.A.Raj filed writ appeal in W.A(MD)NO.1214/2021 and the same was also dismissed by the Division Bench of this Court by order, dated 28.6.2021. However, as pointed out by the learned senior counsel for the first respondent,



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subsequently, by proceeding, dated 27.10.2022, the proceedings of the Chief Educational Officer has approved the appointment of one Maria Theresa appointed by V.A.Raj and therefore, this case was also similarly placed persons as that of Maria Theresa. While the Management was in dispute at the relevant point of time, schools are brought under direct payment scheme and the rival parties have appointed teachers and one of such case, the appellants implemented the order. Therefore they cannot state that neither the Administrator nor the persons who appointed, has no authority. Admittedly, in this case, the Honourable Administrator, has considered the entire materials and approved the appointment/promotion of the first respondent in all the Writ Appeals and the Petitioners in the Writ Petitions and therefore, the learned Single Judge has given direction to approve the appointment/promotion of them. Therefore the learned Single Judge directed the respondents therein to approve the appointment of the first respondents herein as that of the similarly placed person covered in W.P(MD)No.10071 of 2011 and appeal in W.A(MD)No.1214 of 2021 and they cannot now turn around and take a different stand in these cases considering the decision rendered by the Honourable Supreme Court cited supra.



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11. Therefore, in these circumstances, for the reasons stated above, this Court does not find any reason to interfere with the findings rendered by the learned Single Judge and as such, all the Writ Appeals stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[P.V.,J.] [K.K.R.K.,J.]  
01.10.2024

NCS : Yes/No  
Index : Yes / No  
Internet : Yes / No  
vsn



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**P.VELMURUGAN, J.**  
**and**  
**K.K.RAMAKRISHNAN, J.**

vsn

**COPMMON JUDGMENT MADE IN**  
**W.A(MD)Nos.409,161 and 162 of 2023**  
**and**  
**C.M.P(MD)Nos.2131,2133 and 4442 of 2023**

**01.10.2024**