



W.A(MD)No.1825 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1825 of 2024
and
C.M.P.(MD)No.13796 of 2024**

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Higher Education,
Fort St. George,
Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Tirunelveli,
Tirunelveli District.

... Appellants / Respondents

-VS-

The Correspondent,
St. Xaviers Higher Secondary School,
Palayamkottai-627 002,
Tirunelveli District.

... Respondent/ Writ Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 02.09.2022 in W.P.(MD)No.12897 of 2021.

For Appellants : Mr.S.P.Maharajan,
Special Government Pleader



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For respondent : Mr.K.Ragatheesh Kumar,
For M/s.Isaac Chambers

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The appeal is by the State against the orders made in W.P.(MD)No. 12897 of 2021 approving the appointment of one Arul Sebastin as a B.T.Assistant in English with effect from 02.07.2015 in the respondent school.

2. The reasons for rejection were two. One is that the retired teacher in whose place the said Arul Sebastin was appointed was a Secondary Grade Teacher and no approval was obtained for upgradation. The second reason is that there are surplus teachers in other schools in the district. Both these reasons have been held to be bad by the learned single Judge. We had also considered the said grounds of rejection in W.A.(MD)No.1645 of 2024 and W.A.(MD)No.1445 of 2024 wherein it was specifically held that the upgradation of a Secondary Grade Teacher as a Graduate Teacher under G.O.Ms.No.79 is automatic and it does not require any prior approval. We have also held that the availability of surplus teachers in schools under the different management cannot be a ground to reject the request for approval if there are no surplus teachers in the same management or in a stand alone institution. The respondent is a stand alone minority institution and it does not come under a corporate management. In ***State of Tamil Nadu and others .vs. Esakki Muthu***



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and another, dated 21.09.2023, this Court has held that the prohibition imposed in Iruthaya Amali's case which was decided on 31.03.2021 will only be prospective. The appointment in this case has been made as early as on 01.07.2015. Hence, both the grounds of rejection cannot be sustained. Therefore, we do not find any merit in the appeal.

3. The Writ Appeal fails and it is accordingly Writ Appeal is dismissed. The appellants will approve the appointment and also pay the entire salary due to the teacher concerned within a period of twelve (12) weeks from the date of receipt of the copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

16.10.2024

NCC :Yes/No

Index :Yes/No

Internet: Yes

Sml

To

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