



W.P.(MD)No.22073 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.22073 of 2024

and

W.M.P(MD)No.18696 of 2024

St.John's Middle School,
Rep. by its Correspondent,
Mrs.E.Mangayarkarasi,
Veeravanallur – 627 426,
Tirunelveli District.

... Petitioner

Vs.

- 1.The Commissioner of School Education,
O/o. Commissioner of School Education,
DPI Complex,
Nungambakkam,
Chennai.
- 2.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 3.The District Educational Officer (Elementary),
O/o. The District Educational Officer (Elementary),
Tirunelveli,
Tirunelveli District.
- 4.The Block Educational Officer – II,
Cheranmahadevi,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records to the impugned order passed by the third respondent vide his proceedings in O.Mu.No.2531/A1/2024, dated 23.07.2024 and quash the same as illegal and consequently directing the respondents to approve the appointment of M.Umamaheswari as Secondary Grade Teacher with effect from 06.01.2022 and disburse the arrears of salary within a time period stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
For M/s.Ajmal Associates

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The writ petition filed by the management of an aided minority institution challenging the order passed by the third respondent, dated 23.07.2024, wherein, the request of the management to approve the appointment of one M/s.M.Umamaheswari as Secondary Grade Teacher has been rejected.

2. A perusal of the impugned order, dated 23.07.2024 reveals that the proposal for approval has been rejected on the following grounds:



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(a) The teacher has not cleared TET examination

(b) The original educational certificates have not been enclosed.

(c) The proposal has been submitted belatedly after a period of 2 years.

3. According to the learned counsel for the petitioner, all the three reasons assigned in the impugned order are not sustainable and hence, he prays for allowing the writ petition.

4. Per contra, the learned Additional Government Pleader for the respondents contended that when the proposal are received belatedly from the management, naturally, the proposals have to be rejected when proper explanation has not been offered by the management. He further contended that the teacher has to clear TET examination whether it is a minority or non-minority institution.

5. I have carefully considered the submissions made on either sides and perused the materials on records.

6. As far as the issue relating to pass in TET examination is concerned, the Division Bench of this Court in W.A(MD)No.313 of 2022 etc., batch



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reported in **2023 3 L.W.112** has categorically held that pass in TET

WEB examination is not mandatory for any appointment in a minority institution.

7. The petitioner was appointed on 06.01.2022 in a vacancy arising out of voluntarily retirement of one M/s.Guna Santhi. This voluntarily retirement application was approved by the authorities on 25.03.2022. The management has sent the proposal of the petitioner to the educational authorities on 19.07.2022. The authorities are not in a position to explain, on what date the proposal was returned to the management. However, it is clear that the management resubmitted the proposal on 22.05.2024, based upon on which, the present impugned order has been passed on 23.07.2024. When the educational authorities are not in a position to point out the date on which the original proposal was returned by the authorities to the management, the management cannot be blamed for resubmitting the proposal on 22.05.2024 belatedly.

8. The institution being a minority stand alone institution, the authorities have to approve the appointment of the petitioner, if the appointment is within the fixation order for the relevant academic year.



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9. In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the third respondent and the third respondent is directed to pass orders approving the appointment of M/s.M.Umamaheswari as Secondary Grade Teacher with effect from 26.03.2022 with all attendant benefits and pass orders within a period of 12 weeks from the date of receipt of a copy of this order.

10. The school management is directed to place all original educational certificates of the appointee before the authorities to enable them to pass orders.

11. With the said observations and directions, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

19.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
SN



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To:

WEB COPY

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WEB COPY



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R.VIJAYAKUMAR, J.

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