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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.23829 of 2024

and

W.M.P(MD)Nos.20182 & 20184 of 2024

J.Antonyammal

... Petitioner

Vs

1.The Chief Educational Officer,
Tuticorin District,
Tuticorin – 628 002.

2.The District Educational Officer,
Tuticorin District.

3.The St.Lasalle Higher Secondary School,
Rep. by its Correspondent,
Tuticorin District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for records relating to the impugned proceeding passed by the 2nd respondent in his proceedings O.Mu.No. 1742/Aa4/2024, dated 16.08.2024 and quash the same as illegal and consequently direct the 1st and 2nd respondents to approve his appointment as B.T. Assistant (Science) in the petitioner school with effect from 24.03.2023 and release the salary grant and other monetary benefits within the period that may be stipulated by this Court.



For Petitioner : Mr.M.E.Ilango

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R1 & R2
No appearance for R3

ORDER

The instant writ petition has been filed by a BT Assistant(Science) Teacher appointed to the third respondent school, challenging the order passed by the second respondent wherein the proposal of the School Management to approve her appointment has been rejected.

2.A perusal of the impugned order passed by the second respondent on 16.08.2024 reveals that the approval has been returned citing the following reasons:-

a)the Management has to submit the list of schools falling within the corporate Management;

b)certificate has to be issued to the effect that there are no surplus teachers within the corporate Management;

c)there are no qualified teachers to be promoted to the post of BT Assistant within the corporate Management;



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d)whether the appointee has passed TET examination; and

f)Government has so far not issued any guidelines for approval of the appointment of the Graduate Teachers who are appointed after 09.04.2019.

3.According to the learned Counsel appearing for the writ petitioner, the first two reasons assigned in the impugned order have already been complied with by the school Management by way of proceedings dated 26.04.2024. The institution, being a minority institution, it is exempted from following Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules and it is not mandatory for passing TET examination for being appointed in the minority institution. As far as the other ground, that no guidelines have been received from the Government is concerned, once the appointments are made within the sanctioned strength and there are no surplus teachers within the corporate Management, it is not necessary to wait for the guidelines from the Government.

4.The writ petition came up for admission on 04.10.2024 and time was granted till 21.10.2024 for filing counter, yet no counter was filed by the concerned respondents.



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5.This Court is of the considered opinion that once the conditions 1 & 2 have been complied with by the school Management and being a minority institution, the conditions 3 and 4 are not required to be complied with and the 5th reason assigned by the second respondent is not legally sustainable, the order impugned in the writ petition is hereby set aside and the matter is remitted back to the file of the second respondent herein. The second respondent is directed to forward the files to the first respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to approve the appointment of Smt.J.Antonyammal as BT Assistant (Science) Teacher w.e.f.24.03.2023 with all attendant benefits and pass orders thereafter.

6.With the above said observations, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

21.10.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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To

1.The Chief Educational Officer,
Tuticorin District,
Tuticorin – 628 002.

2.The District Educational Officer,
Tuticorin District.



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R.VIJAYAKUMAR, J.

RJR

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