



W.A(MD)No.2134 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2024

CORAM:

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

**W.A(MD)No.2134 of 2024
and
C.M.P.(MD)No.15037 of 2024**

1.The State of Tamil Nadu,
Rep. 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,
Kanyakumari District at Nagercoil,
Kanyakumari District-629 001.

4.The District Educational Officer,
Nagercoil-629 001,
Kanyakumari District.

... Appellants / Respondents

-vs-

The Correspondent,
St.Joseph's Convent Higher
Secondary School,
Nagercoli,
Kanyakumari District-629 001.

... Respondent / Writ Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 02.07.2024 in W.P.(MD)No.14095 of 2023.



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W.A(MD)No.2134 of 2024

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

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

JUDGMENT

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

The order under challenge is one directing the respondents 3 and 4 to consider and pass orders on the approval claimed for appointment of one A.Colleen Clemency as B.T. Assistant (Tamil) in the respondent School with effect from 01.06.2018.

2. Admittedly, the school forms part of the corporate management. The teacher concerned was appointed as a B.T.Assistant on 01.06.2018. Approval for appointment was sought for. It was rejected on the ground that there were surplus teachers in the management and therefore approval cannot be granted by the proceedings dated 04.02.2022. The school challenged the same in the writ petition.

3. The contention of the Education Department before the Writ Court was that since there was surplus teachers in the corporate management, the approval was refused. The issue is squarely covered by the judgment of



W.A(MD)No.2134 of 2024

this Court in **Secretary to Government of Tamil Nadu, School Education Department, Fort St. George, Chennai-9 .vs. Iruthaya**

Amali and subsequent judgment in **the Commissioner of School Education .vs. Aided Muslim Committee Primary School, Rep. by its Correspondent, S.Sheik Shajakhan Sithik**. It is also worthwhile to point

out that the G.O. 165 which prohibited the approval of appointments where there is a surplus was held inoperative by this Court. However, in **Iruthayamali**, the Division Bench held that approval of appointment need not be granted when there is surplus teachers in the corporate management or in the school, if it is a stand alone institution only on and from 31.03.2021, that is, the date of the judgment in the said case. Therefore, it follows that all appointments made prior to that date to a sanctioned post have to be approved and after approval the department must take action for redeploying the teacher in the needy schools.

4. In view of the above settled position of law, we do not think we could interfere with the direction of the learned single Judge made in the writ petition. The writ appeal therefore fails and it is accordingly dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

29.10.2024

NCC :Yes/No

Index :Yes/No



W.A(MD)No.2134 of 2024

Internet: Yes
Sml
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