



W.P.(MD)No.27798 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2024

**CORAM:
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.27798 of 2023
and WMP(MD).No.23594 of 2024**

The Correspondent
St.Joseph's Middle School
Kalkurichi, Thuckalay
Kanyakumari District

... Petitioner

Vs.

1.The State of Tamil Nadu
Represented by its Secretary
Department of School Education
Fort St.George
Chennai 600 009

2.The Director of Elementary Education
College Road, Chennai 600 009

3.The District Educational Officer
(Elementary Education)
Nagercoil, Kanyakumari District

4.The Block Educational Officer
Thuckalay, Kanyakumari District

.....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying for a Writ of Certiorarified Mandamus calling for the records relating to



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the impugned proceedings issued by the 3rd respondent District Educational Officer in Na.Ka.No.3719/a4/2024 dated 22.10.2024 quash the same, further direct the 3rd respondent District Educational Officer herein to approve forthwith the appointment of V.Bable Vijila as Physical Education Teacher in the petitioner's School from the date of her appointment ie. 01.06.2018 and disburse the grant-in-aid towards her salary and allowance w.e.f. the said date.

For Petitioner : M/s.A.Amala

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

ORDER

The instant writ petition has been filed by the management of Aided Minority Institution challenging the order passed by the third respondent herein on 22.10.2024 wherein the proposal of the management to approve the appointment of the Physical Education Teacher has been rejected.

2.A perusal of the impugned order reveals that the petitioner management has appointed one V.Bable Vijila as Physical Education Teacher in their School on 01.06.2018. The proposal forwarded by the management has been rejected under the impugned order on the ground that the students strength of the School is only 57 in the academic year 2022-2023 and 76 in the academic year 2023-2024.



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Another reason that is assigned for rejection of proposal is that there are surplus Physical Education Teachers available within the School administered by the Corporate Management and therefore, the appointment of the Physical Education Teacher cannot be approved. This order is put to challenge in the present writ petition.

3. According to the learned counsel for the petitioner, the post of Physical Education Teacher is a single sanctioned post to the School and therefore, the same cannot be declared as surplus. She had further contended that the Physical Education Teachers who are available in the other Schools are also single sanctioned post and therefore, the issue of surplus Physical Education Teacher within the corporate management does not arise.

4. Per contra, the learned Additional Government Pleader appearing for the respondents herein relying upon Paragraph No.10 of the Counter had contended that the students strength is less than 100 for the past 6 years and therefore, the School is not entitled to have a Physical Education Teacher. He had further contended that as per impugned order, two of the other schools coming under the corporate management are having surplus Physical Education Teachers and therefore, in such circumstances, the proposal forwarded by the management



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cannot be accepted. Hence, he prayed for dismissal of the writ petition.

5.I have considered the submissions made on either side and perused the material records.

6.As far as the petitioner's School is concerned, the post of Physical Education Teacher is a single sanctioned post. In such circumstances, such a sanctioned post cannot be declared as surplus on the ground that the students strength has fallen down. The appointment having been made within the staff fixation order, the authorities have to approve the said appointment. In the impugned order, two other Schools falling within the same corporate management are being referred as having surplus Physical Education Teacher. Those Schools are also middle Schools and therefore, they are having single sanctioned posts. In such circumstances, the Physical Education Teacher working in the said Schools cannot be considered as surplus teachers.

7.In view of the above said facts, the order impugned in the writ petition is set aside and the third respondent is directed to approve the appointment of V.Bable Vijila as Physical Education Teacher in the petitioner School with effect from 01.06.2018 with all attendant benefits within a period of 12 weeks from the date of receipt of a copy of this order.



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8. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
NCC: : Yes/No
msa

To

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R.VIJAYAKUMAR, J.

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