



W.A.(MD).No.2476 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD).No.2476 of 2024

and

C.M.P.(MD).No.17323 of 2024

- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 9.
- 2.The Director of School Education,
College Road, DPI Campus,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Tenkasi District, Tenkasi.
- 4.The District Educational Officer
(Elementary Education),
O/o District Educational Officer,
Tirunelveli District, Tirunelveli.
- 5.The Block Educational Officer,
O/o Block Educational Office,
Manur,
Tirunelveli District - 627 201.

... Appellant/Respondents

Vs.



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1.A.Saboral Mary

... 1st Respondent/Writ Petitioner

2.The Correspondent,
T.D.T.A. Middle School,
Mela Ilandaikulam,
Sankarankovil Taluk,
Tirunelveli District.

... 2nd Respondent/6th Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 11.09.2024 passed in W.P.(MD).No.3712 of 2024.

For Appellants : Mr.J.Ashok
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by M.S.RAMESH,J.)

The present Writ Appeal has been filed challenging the order of the learned Single Judge in W.P.(MD).No.3712 of 2024 dated 11.09.2024.

2. The learned Additional Government Pleader would submit that,

(i) The respondent school, which is a minority school, would have no right to upgrade the sanctioned post without proper permission of the concerned authorities;



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(ii) since there are surplus teachers in the corporate management of the respondent school, their request for approval of appointment cannot be considered; and

(iii) the approval of appointment of the Teacher in the respondent school could not be granted on the ground that the Teacher does not possess a pass in the Teacher's Eligibility Test (TET);

On these grounds, he seeks for setting aside the order of the learned Single Judge.

3. We are unable to endorse the grounds raised by the learned Additional Government Pleader for the following reasons:

(i) Firstly, the issue with regard to rights of minority schools upgrading sanctioned posts has already been dealt with in several writ petitions as well as by the Division Benches of this Court holding that a minority institution will be well within its power to upgrade a sanctioned post. One such case of the coordinate Bench of this Court is ***the Chief Educational Officer, Tirunelveli and another Vs. S.Josephin Vijaya and another, dated 14.12.2017 in W.A. (MD).No.1497 of 2017.***



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(ii) Secondly, the issue as to whether the educational authorities are empowered to reject the approval of appointment of a teacher in a minority school on the ground that there are surplus teachers in the other schools in the corporate management, has already been dealt with by this Court in several decisions including the decision in the case of ***the Secretary to Government, Government of Tamil Nadu School Education Department, Fort St.George, Chennai – 9 Vs. Iruthaya Amali*** [W.A.(MD).No.76 of 2019 etc., batch dated 31.03.2021]. One such decision was by a coordinate Bench of this Court in the case of the ***Chief Educational Officer, Tirunelveli District and another Vs. A.X.Mino and another*** passed in ***W.A.(MD).No.1855 of 2024 dated 16.10.2024***. By placing reliance upon the decision in *Iruthaya Amali*'s case, the learned Single Judge had allowed the Writ Petition and held that the educational authorities cannot reject the application seeking for approval of appointments on this ground.

(iii) Thirdly, this Court in exercise of its power under Article 226 of the Constitution of India has been consistently holding that a pass in the Teacher's Eligibility Test is not a mandatory pre-requirement for appointment of a Teacher in a minority school and that the educational authorities have no authority to reject a proposal for approval of such appointment made. The



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orders of the Division Benches of this Court in **W.A.No.179 of 2024**, dated **22.01.2024** [*The Government of Tamil Nadu, Rep. by its Additional Chief Secretary, Department of School Education and others vs. T.Selvarani and another*] and in **W.A.(MD)No.670 of 2024**, dated **12.04.2024** [*The District Educational Officer, Sivagangai and another vs. Y.Joseph Mercy Rani and another*], are two such orders, wherein, this ratio has been upheld.

4. When Coordinate Benches have already taken such a view, we see no justification on the part of the authorities in having rejected the proposal of the minority schools seeking for approval of the appointments made. Hence, we do not find any merits in the Writ Appeal.

5. Accordingly, the Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(M.S.R.,J.) (A.D.M.C.,J.)
05.12.2024

NCC : Yes / No
Index : Yes / No
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