



W.P.(MD).No.31217 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.31217 of 2023
and W.M.P(MD) No.26751 of 2023

The Correspondent
St. Mary's Tope Middle School,
Tiruchirapalli – 620 002,
Tiruchirapalli District.

... Petitioner

Vs

1. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
Tiruchirapalli,
Tiruchirapalli District.
3. The District Educational Officer,
(Elementary Education)
Mannarpuram, Tiruchirapalli, Tiruchirapalli District.
4. The Block Educational Officer,
Woraiyur, Tiruchirapalli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent District Educational Officer to approve forthwith the appointment of S.Maria Santhi as Secondary Grade Teacher in the petitioner School and disburse salary and allowances w.e.f., the date of appointment viz., 03.04.2023.



W.P.(MD).No.31217 of 2023

For Petitioner : M/s.Isaac Chambers

For Respondents : Mr.G.Suryananth
Additional Government Pleader

ORDER

The present writ petition has been filed to issue a writ of mandamus directing the 3rd respondent/District Educational Officer to approve the appointment of Ms.S.Maria Santhi as Secondary Grade Teacher in the petitioner School and disburse salary and allowances w.e.f., the date of appointment viz., 03.04.2023.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents. Perused the materials on record.

4.The petitioner school namely, St. Mary's Tope Middle School, Tiruchirapalli is administered by a society of St.Joseph's College. It is a recognised and aided minority Educational Institution. The petitioner school is



W.P.(MD).No.31217 of 2023

one among the two schools owned and administered by the above said society.

The school was initially established as a Primary School in the year 1924 and upgraded as Middle School in the year 1964 and currently offering education from standard I to VIII and the medium of instruction is English.

5. One of the post of Secondary Grade Teacher in the school fell vacant on 04.08.2022 due to voluntary retirement of the then incumbent Ms.R.Aloysius Mary on 03.08.2022. In the said vacancy, the school appointed a fully qualified candidate namely Ms.S.Maria Santhi, Secondary Grade Teacher with effect from 03.04.2023. The petitioner School submitted necessary proposal to the 3rd respondent/D.E.O on 21.07.2023 to approve the appointment of Ms.S.Maria Santhi as Secondary Grade Teacher. However, the third respondent failed to do so.

6. As per the order of this Court in W.A(MD) No.76 of 2019 and batch and as per the G.O.Ms.No. 165, School Education Department, dated 17.09.2019, it was instructed by the third respondent that until the surplus teachers working in minority and non-minority private aided schools were deployed to the needy schools, no new appointment should be made in any



W.P.(MD).No.31217 of 2023

schools and that no approval should be granted thereof. In the petitioner school there is no surplus teachers. Hence, this petition came to be filed seeking approval of appointment.

7.The case in hand is no more *res-integra*. The Division Bench in W.A(MD) No.76 of 2019 and batch has issued a compendium of schedule to be followed and Clause (V) is extracted as follows:

“(v) Like that insofar as aided minority institutions are concerned,if it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength for the academic year 2021-22 shall not be affected because of the identified excess teachers in other schools. At the same time, even if the school is a minority institution, however being administered by a joint management or corporate management, in respect of those schools, even though vacancy arose within the sanctioned strength of such school or schools under corporate management or joint management, those vacancies shall not be filled up unless the excess staff identified in all other schools under the same corporate or joint management are exhausted fully and only after exhausting the redeployment process on all excess teachers identified in the group of schools under the same corporate management, they shall be free to make appointment afresh from open market in the vacancy if any still, within the sanctioned strength.”



W.P.(MD).No.31217 of 2023

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8.In view of the said directive and considering the fact that the petitioner school is a stand alone institution, the third respondent/D.E.O ought to have approved the appointment of Ms.S.Maria Santhi as Secondary Grade Teacher. In yet another case in W.P(MD) No.26738 of 2023, dated 14.03.2023, this Court has dealt with similar case and the relevant portion is extracted hereunder:

“4. Under the impugned order, G.O.Ms.No.165 School Education Department, dated 17.09.2019 has been cited as one of the reasons to contend that when there are surplus teachers, the question of fresh appointment would not arise. This order has been passed without even considering the fact that the petitioner school is a stand alone minority school. The question of surplus teachers would not arise. The authority has to see the staff fixation order for the academic year 2019-20 and if there are vacancies for filling up B.T Assistant teachers within the sanctioned strength, he has to proceed and pass orders approving the appointment.”

9.In view of the above, I am fully in consonance with the order as discussed supra and as such the third respondent is directed to approve the appointment of Ms.S.Maria Santhi as Secondary Grade Teacher in the petitioner school with effect from 03.04.2023 with all attendant benefits. The said exercise shall be completed within a period of four weeks from the date of receipt of copy of this order.



W.P.(MD).No.31217 of 2023

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10. With the above direction, this writ petition stands disposed of.

Consequently the connected miscellaneous petition is closed. No costs.

02.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

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College Road, Chennai - 600 006.
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Tiruchirapalli District.
3. The District Educational Officer,
(Elementary Education)
Mannarpuram, Tiruchirapalli, Tiruchirapalli District.
4. The Block Educational Officer,
Woraiyur, Tiruchirapalli District.



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W.P.(MD).No.31217 of 2023

L.VICTORIA GOWRI, J.

PNM

ORDER IN
W.P.(MD).No.31217 of 2023
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02.01.2024