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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.Nos. 1643 & 18889 of 2024

And

W.M.P.No. 20738 & 1683 of 2024

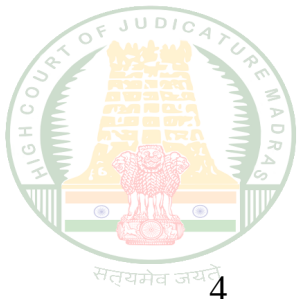
W.P.No. 1643 of 2024

Mrs.M.Jerald Arockia Arul Ruby
Holy Angels Anglo Indian Higher Secondary School
107, Sir Theyagaraya Road
T.Nagar, Chennai – 600 017.

... Petitioner

..Vs..

1. The Government of Tamil Nadu
Represented by its Principal Secretary
Department of School Education
Fort St. George, Chennai – 600 009.
2. The Director of School Education
DPI Campus
College Road
Chennai – 600 006.
3. The District Educational Officer (Anglo-Indian)
The Office of the District Educational Officer
No.9, Kamarajar Salai,
Triplicane, Chennai – 05.



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4.

The Correspondent

Holy Angels Anglo Indian Higher Secondary School

107, Sir Theyagaraya Road,

T.Nagar, Chennai – 600 017.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 20.12.2023 in Na.Ka.No. 1889/AA1/2023 on the file of the third respondent and quash the same, directing the respondents 1 to 3, to accord approval to the appointment of the petitioner, Mrs. M.Jerald Arockia Arul Ruby, as B.T. Assistant (Tamil) in the fourth respondent Holy Angel's Anglo Indian Higher Secondary School, 107, Sir Theyagaraya Road, T.Nagar, Chennai – 600 017, with effect from 01.06.2020 with all service and monetary benefits.

For Petitioner

:: Father Xavier Arul Raj
Senior Counsel for
Pather Xavier Associates

For Respondents

:: Mrs.S.Mythreye Chandru
Special Government Pleader

W.P.No. 18889 of 2024:

Mrs.M.Jerald Arockia Arul Ruby

Holy Angels Anglo-Indian Higher Secondary School

107, Sir Theyagaraya Road

T.Nagar, Chennai – 600 017.

... Petitioner



..Vs..

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1. The Government of Tamil Nadu
Represented by its Principal Secretary
Department of School education
Fort St. George, Chennai – 600 009.
2. The Director of School Education
DPI Campus
College Road
Chennai – 600 006.
3. The Joint Director of School Education (Higher Secondary)
DPI Campus
College Road,
Chennai – 600 006.
4. The District Educational Officer (Anglo India)
The Office of the District Educational Officer
No.9, Kamarajar Salai,
Triplicane, Chennai -05.
5. The Correspondent
Holy Angels Anglo Indian Higher Secondary School
107, Sir Theyagaraya Road,
T.Nagar, Chennai – 600 017. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 02.032024 in Na.Ka.No. 066088/W4/E3/2023 on the file of the third respondent and quash the same, directing the respondents 1 to 4, to accord approval to the appointment of the petitioner, Mrs. M.Jerald Arockia Arul Ruby, as B.T. Assistant (Tamil) with effect from 01.06.2020, by converting the B.T.Assistant (Hindi) post



into B.T. Assistant (Tamil), in the fifth respondent Holy Angel's Anglo Indian Higher Secondary School, 107, Sir Theyagaraya Road, T.Nagar, Chennai – 600 017, with all service and monetary benefits.

For Petitioner	:: Father Xavier Arul Raj Senior Counsel for Father Xavier Associates
For RR 1 to 4	:: Mrs.S.Mythreye Chandru Special Government Pleader

COMMON ORDER

Since both these Writ Petitions relate to the same issue, a common order is passed.

2. The Writ Petitioner, who has filed both the Writ Petitions had been appointed as B.T.Assistant (Tamil) in the fourth respondent school / Holy Angles Anglo Indian Higher Secondary School at Chennai on 01.06.2020. In both the Writ Petitions, the fourth respondent had sought approval of such appointment. In view of the two impugned orders passed refusing to grant such approval, the petitioner had filed the two Writ Petitions.



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3. In W.P.No. 1643 of 2024, the petitioner has questioned an order dated 20.12.2023 passed by the third respondent / the District Educational Officer (Anglo-Indian) in Chennai and in W.P.No. 18889 of 2024, the petitioner has questioned an order dated 02.03.2024 again passed by the third respondent / the Joint Director of School Education (Higher Secondary), Chennai. In both the Writ Petitions, a further relief has been sought to grant approval to the appointment of the petitioner as B.T. Assistant (Tamil) with effect from 01.06.2020.

4. Incidentally, the petitioner also seeks that the conversion by the fourth respondent of the post B.T. Assistant (Hindi) to B.T. Assistant (Tamil) should also be approved by the respondents. There is no clarity as to why the petitioner seeks that particular relief since that relief should have been sought only by the School/ Holy Angels Anglo -Indian Higher Secondary School at Chennai. But however, since the service of the petitioner is directly affected, the petitioner had come forward to file these two Writ Petitions.



5. In the affidavit filed, it had been stated that the fourth respondent school is a Catholic Religious Congregation School run by Franciscan Missionaries of Mary. It had been further stated with respect to the students structure in the school and the staff fixation for the year 2019 -2020 that had been provided by proceedings dated 13.02.2020, the strength of the students in classes between 6 to 10, is 831 and there were 18 separate sections. With respect the staff fixation it had been stated that there were two sanctioned posts for B.T. Assistant (Tamil) and also two sanctioned posts for Hindi.

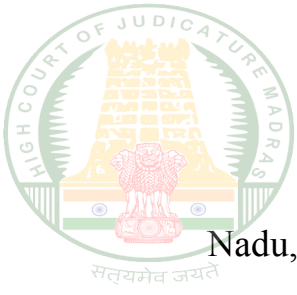
6. It is further contended that the petitioner had been appointed as B.T. Assistant (Tamil) consequent to conversion on 01.06.2020 of B.T. Assistant (Hindi) to B.T. Assistant (Tamil). The school had forwarded a proposal to approve such conversion. No orders have been passed by the respondents on that particular proposal put up by the School.

7. On the other hand, while the proposal for approval of the appointment of the petitioner had been examined, by way of the order impugned in W.P.No. 1643 of 2024, it had been contended by the



respondents that the respondents had issued a communication that the post of B.T. Assistant (Tamil) should not be filled and since the post had been filled after that particular communication, approval cannot be granted. Subsequently, the impugned order in W.P.No, 18889 of 2024 came to be passed by the Joint Director of School Education (Higher Secondary) at Chennai wherein it had been observed that there are 12 teachers, who are functioning in the school and out of them 11 had studied Tamil as a subject during their education and therefore, there was no necessity to appoint or rather to convert the post of B.T. Assistant (Hindi) to B.T. Assistant (Tamil). It was also pointed out that a communication had been issued earlier that the post of B.T. Assistant (Tamil) should not be filled without prior approval. It had been further contended that since the post had been filled in direct violation of the directions of the respondents not to fill the post, and since there were already 11 teachers, who had studied Tamil as a subject, approval for the appointment of the petitioner as B.T. Assistant (Tamil) cannot be granted.

8. The learned Senior counsel for the petitioner however pointed out that consequent to a policy decision taken by the Government of Tamil



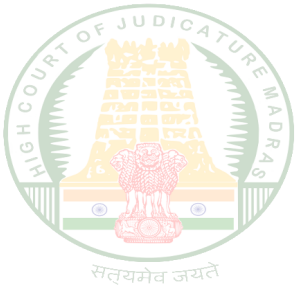
Nadu, every student, who studies between Standards 1 to 10 in all the schools in Tamil Nadu must learn Tamil as subject on and from the academic year 2006-2007. It had been stated that the pattern of education shall be that Tamil must be a compulsory subject for every student between the standard 1 to 10 in all the schools. The learned Senior Counsel therefore stated that owing to this particular stipulation introduced, the necessity for having an additional B.T. Assistant (Tamil) was of paramount importance to the school and therefore, while at the same time the interest in learning Hindi as a subject had reduced. The School had therefore, in a prudent manner, taken a decision to convert the post of B.T. Assistant (Hindi) to B.T. Assistant (Tamil).

9. The learned Senior Counsel in this connection placed reliance on the observation of a learned Single Judge of this Court in the Judgment reported in **2006 5 CTC 504 [the Corporate Manager, CSI Corporate Schools Vs. The State of Tamil Nadu]** and the Judgment reported in **(2007) 2 MLJ 760 [Correspondent, Britania Higher Secondary School, Chennai Vs. State of Tamil Nadu]** wherein the issue of conversion of the seats was taken up and it was considered whether the school could be bound to follow



the directions as directed by the respondents. The learned Single Judge had observed that necessity for a particular subject teacher in a School can be ascertained only by the concerned Management and if conversion of a post is required the Management could submit a proposal based on the workload and the second respondent after verifying the same should grant permission. By way of the impugned order, in that particular Writ Petition, the respondents had directed the Management to fill up a post in a particular manner without ascertaining the real need of the school and that particular circular was struck down by the learned Single Judge. The observations of the learned Single Judge are as follows:-

“11.From the above proceedings it is clear that the need of the particular subject teacher in a School will be ascertained by the concerned management and if any conversion of post is required, the concerned management will submit a proposal based on the workload and the second respondent after verifying the same, used to grant permission. But, by the impugned



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circular, the second respondent has directed the management to fill up the vacant posts by subject roaster without ascertaining the real need of the school with regard to the subject teacher. Hence the impugned circular is unreasonable and based on no material. It may be true, for a new school, when posts are sanctioned, the second respondent is justified in giving a subject roaster to fill up the posts, but cannot insist the Schools, where teachers are already working in different subjects.

12. The Director of School Education on his own has issued circular to fill up the post of Maths, English and Science in the vacancies arising from 1.6.2003. It is also stated in the said circular that for the subject of Scientific Tamil only Science teacher is competent to handle the classes, which is a new subject introduced. It is not in dispute that all the post in a school having



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standards 6 to 8 are earmarked as Maths, English and Science respectively. It is stated in the impugned circular that the retirement/death/resignation vacancies arising from 1.6.2003 shall be filled up by following the subject roster. The said circular do not consider the availability of qualified B.A. and B.Ed passed Secondary grade Teacher working in the school for handling English, Maths and Science Subjects. If really there are qualified teachers available to handle English or Maths or Science subjects in the school, it is definitely open to the management to fill up the post by appointing a teacher in the relevant subjects, where there are no qualified or sufficient teachers available. Hence it is clear that the second respondent issued the circular without application of mind and without considering the relevant facts such as availability of teachers in the subjects of English, Maths and Science in a



particular school.”

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10. Placing reliance on the aforementioned reasoning of the learned Single Judge, the learned Senior Counsel pointed out that even in the instant case, the School had thought it imperative that the post of B.T. Assistant (Hindi) should be converted to B.T. Assistant Tamil) particularly taking into consideration the strength of the school students in the standard 6th and 10th and the number of sections which the School had and with respect to the requirement of the teachers. The learned Senior Counsel placed reliance on G.O.Ms.No. 525, School Education (D1) Department dated 29.12.1997 which was issued with specific reference to Recognised Private Schools and had stipulated the norms of assessment of grant of teaching post. While examining the eligibility of a language teacher, it had been stated that for sections 6 to 10, if there are 11 and more sections, the number of teachers should be 3.

11. Pointing out the aforementioned Government Order, the learned Senior Counsel argued that in the instant case, the School had 18 sections between the Standards 6 to 10, while the number of teachers in B.T.



Assistant (Tamil) was 2. There was therefore a requirement for an additional teacher and it was for that reason, the Management had taken a conscious decision to convert the post of B.T. Assistant (Hindi) to B.T. Assistant (Tamil). In this connection, the petitioner had also forwarded a proposal to the respondents seeking approval of such conversion. It is contended that orders had not been passed on that particular proposal forwarded by the School.

12. Irrespective of the above, it had been further contended by the learned Senior Counsel that owing to the requirement of the school and more particularly of the students, a prudent decision had been taken by the school to convert the B.T. Assistant (Hindi) post to B.T. Assistant (Tamil). This was stated in conformity with the requirements as stipulated in G.O.Ms.No. 525, School Education (D1) Department dated 29.12.1997.

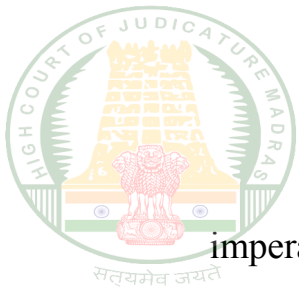
13. In the counter affidavit filed by the respondents reliance on which had been placed by the learned Special Government Pleader for the respondents, the primary objection which had been raised was that a circular had been issued to the school that without prior approval the post of B.T.



Assistant (Hindi) should not be converted. This was by a circular dated 02.02.2024 issued by the second respondent. It had been further contended that 11 teachers had taken Tamil as one of the subjects and one of them had taken Hindi as that subject. It was also contended if there is any appointment made by the Management of the School in contradiction to the Government Orders or Rules in force, the salary for the said incumbent should be met only by the Management. It is therefore contended that since the appointment of the petitioner to the post B.T. Assistant (Tamil) was when there was no sanctioned post available in that particular category, the respondents could not approve the said appointment.

14. I have carefully considered the arguments advanced.

15. The School / Holy Angels Anglo-Indian Higher Secondary School is a Minority Institution. The number of students, who were studying between 6th to 10th standard in the year 2019-2020 was 831. There were 18 sections. Additionally there were 18 added sections. The staff structure provided was two for B.T. Assistant (Tamil) and two for B.T. Assistant (Hindi). On and from the academic year 2006-2007, it was

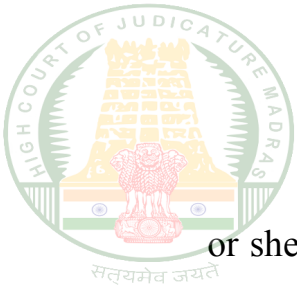


imperative that every school imparts Tamil as a subject to be taught to the students between the standards 6th to 10th. This had been introduced as a policy decision by the Government. Naturally, it also required the appointment of a qualified Tamil teacher to impart education in Tamil. Introduction of this particular policy decision, led to a fall in the number of students, who opted for Hindi as a subject. Therefore, schools which had posts for the teaching in Hindi felt that those posts were surplus and there was a requirement of an additional post to teach Tamil to the students. The respondent school in the instant case also felt the same need. They had 18 sections between the standards 6th to 10th and the requirement was that there should be atleast three teachers in accordance with G.O.Ms.No. 525, School Education (D1) Department dated 29.12.1997 but they had only two sanctioned posts. They had two sanctioned posts to teach Hindi. The school had therefore taken a decision to convert one Hindi post to Tamil. It is on that basis that the petitioner had been appointment as B.T. Assistant Tamil. This is a decision which could be taken by the school, but such decision should also conform to the norms and regulations as stipulated by the respondents and the respondents have every right to examine whether it did confirm to such norms and regulations.



16. A circular had been issued by the respondents placing a caution on the school not to so convert the post of B.T. Assistant (Hindi) to B.T. Assistant (Tamil). But the petitioner found herself being appointed as B.T. Assistant (Tamil) and her position being nebulous in nature she had filed the two Writ Petitions questioning the proceedings of the respondent, who had refused to grant permission approving her appointment.

17. In W.P.No. 1643 of 2024, the respondents had contended that since there was no order permitting such conversion, her appointment could not be recognised or approved by the respondents. In the order impugned in W.P.No. 18889 of 2024, the respondents had contended that there are already 11 teachers, who had studied Tamil as a subject and one teacher, who had studied Hindi as a subject and therefore, there was no requirement for conversion. But it must be pointed out that studying Tamil as a subject would not be of much assistance while importing knowledge in Tamil to the students between the classes 6th to 10th. The teacher must be proficient in Tamil. It is not sufficient that Tamil as an alternate language is taken up as a course by the teacher. It must be their medium of education. It must have been the medium under which the teacher had studied during education. He



or she must be in a position to impart the language in its proper form to the students. Therefore, the reason that merely because there are 11 teachers, who have studied Tamil as a subject and therefore, there was no necessity to convert the post of B.T. Assistant (Hindi) to B.T. Assistant (Tamil), cannot be appreciated by this Court and does not withstand the scrutiny of this Court.

18. The respondents in their impugned order have not stated the specific subjects which those 11 teachers were taking. They could be taking science, they could be taking maths, they could be taking history and they could be taking geography. Therefore, it would only be appropriate that the school enters into a discussion with the respondents to permit conversion of B.T. Assistant (Hindi) to B.T. Assistant (Tamil) post. The respondents must also view such conversion as a necessity for the benefit of the students and more importantly as a necessity for the school to conform to the stipulations in G.O.Ms.No. 525, School Education (D1) Department dated 29.12.1997 introduced by the Government as a policy decision directing imparting Tamil as a subject for every student, who studies between 6th to 10th standards.



WEB COPY 19. In view of these reasons, the prohibition issued by the respondents from conversing B.T. Assistant (Hindi) to B.T. Assistant (Tamil), cannot be upheld by this Court. There should be some liberty granted to the Management to assess the needs of the students and decide the posts which have to be filled up. This is the purport of the reasoning also given by the learned Single Judge in the Judgement reported in **2006 5 CTC 504 [the Corporate Manager, CSI Corporate Schools Vs. The State of Tamil Nadu]** referred supra.

20. The learned Single Judge had very categorically stated that the need of a particular subject teacher in a school can be ascertained only by the Management. If in that particular reason or decision taken by the Management, the respondents were to impute prejudice or bias in appointing a particular teacher, then the respondents can step in and question such appointment. If the appointment is based on the requirement of the students, then the respondents must hold a broader view on the entire issue.



21. In view of these reasons, the orders impugned in both the Writ

Petitions are set aside and the matter is again remitted to the District Educational Officer (Anglo Indian) at Chennai for fresh consideration of the entire issue in the light of the discussion above. The school / Holy Angels Anglo Indian Higher Secondary School may reiterate their proposal setting out the position as on date and the necessity to convert the post of B.T. Assistant (Hindi), to B.T. Assistant (Tamil). They may also give a statistics of the student strength as on date and impress upon the respondents that necessary approval should be granted for the appointment of the petitioner herein as B.T. Assistant (Tamil) with effect from 01.06.2020 and also extend all service and monetary benefits. On receipt of such communication from the school, the District Educational Officer (Anglo Indian), Chennai, must pass appropriate orders. Before passing such orders if any clarification is required, he/she may issue a communication / notice to the school and the school authorities may clarify the said issues also. Necessary orders in this regard must be passed within a period of three months from the date of receipt of a copy of this order.



22. The Writ Petitions stands disposed of. Consequently, connected

Miscellaneous Petitions stands closed. No order as to costs.

04.03.2025

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The Principal Secretary
The Government of Tamil Nadu
Department of School education
Fort St. George, Chennai – 600 009.
2. The Director of School Education
DPI Campus
College Road
Chennai – 600 006.
3. The District Educational Officer (Anglo-Indian)
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5. The Joint Director of School Education (Higher Secondary)
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C.V.KARTHIKEYAN, J.,

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