



W.A.No.253 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.No.253 of 2025 and
C.M.P.No.1845 of 2025**

The Correspondent,
Danish Mission Primary School,
Mampzhapattu,
Villupuram District.

... Appellant

-Vs-

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.

2. The District Educational Officer,
Villupuram District.

3. The Block Educational Officer,
Villupuram District.

... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.39138 of 2024 dated 20.12.2024 and allow the above writ appeal.

For Appellant : Mrs.Dakshayani Reddy
Senior Counsel
for Mr.C.Mahendran

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader



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J U D G M E N T

WEB COPY (Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order passed by the writ Court dated 20.12.2024 in W.P.No.39138 of 2024.

2. A Secondary Grade Teacher post which was vacant in the appellant School was filled up and the School has also sought for approval from the second respondent, the second respondent refused to give approval by order dated 21.03.2022. As against the said order, when the writ petition was filed, the writ Court was of the opinion that, after 2 ½ years of passing the order impugned before the writ Court since the writ petition has been filed without exhausting the appellate remedy, the learned Judge directed the writ petitioner to file an appeal before the Appellate Authority and by making such observation and direction, the writ petition was disposed through the impugned order dated 20.12.2024.

3. Assailing the same, Mrs.Dakshayani Reddy, learned Senior Counsel appearing for the appellant would contend that, as against the order of refusal of approval of appointment of Teacher in a sanctioned post in an Aided School,



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there has been no appeal provided either under the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 or the Rules, 1974 made thereunder, therefore the only remedy available for the School concerned is to approach this Court by filing a writ petition invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution.

4. When that being the position, the view taken by the learned Judge by driving the appellant School to go before the Appellate Authority is beyond the scope of the said Act as well as the Rules and therefore, the order impugned is liable to be interfered with, she contended.

5. We have gone through the said order of the learned Judge which is impugned herein and also the relevant provision of the Act as well as the Rules made thereunder.

6. Even though some appeal remedy has been provided under Rule 29, i.e., only in respect of some other issues which are governed under Sections 6, 8, 11, 12, 14, 22, 29, 31 & 32 of the Act, however the approval of the appointments are normally would be made by the Educational Authorities under Section 15 of the Act and if any such approval is given or refusal is made



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against such order, no such appeal remedy since has been provided under Rule

29 of the said Rules as stated *supra*, the said direction given by the learned

Judge directing the appellant / writ petitioner to go before the Appellate Authority may be erroneous. In that view of the matter, we are inclined to interfere with the order impugned.

7. It is further to be noted that, as far as the reasoning which has been given for refusal of approval is concerned, it has been refused because of the alleged excess Teachers in the School concerned.

8. If that being the position, if the appointment has been made prior to 31.03.2021, the date on which the judgment has been rendered in a batch of writ appeals and writ petitions by a Division Bench of the Madurai Bench of this Court, which has become final in the matter of ***Secretary to Government, Government of Tamil Nadu, School Education Department, Fort St. George, Chennai-9 and others Vs. Iruthaya Amali and another in W.A.(MD)Nos.76 of 2019 etc., batch***, such an appointment should be approved provided if the Teacher is qualified to hold the post and if the appointment is otherwise in order and after approval is given since the Department finds that there is an excess Teacher available in the School concerned, such a Teacher approved can



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be redeployed to any needy school, this is the legal position which has been

enunciated in the said judgment dated 31.03.2021.

9. This decision also has been reiterated by yet another Division bench of the Madurai Bench of this Court in the matter of ***The State of Tamil Nadu, Represented by its Secretary, Department of School Education, Fort St. George, Chennai and others Vs. The Correspondent, St. Joseph's Convent Higher Secondary School, Nagercoil, Kanyakumari*** in ***W.A.(MD)No.2134 of 2024*** where the following observations has been made by the Division Bench:

"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 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



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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."

10. Therefore, even on merits also the rejection order made by the second respondent which was impugned before the writ Court would not be sustained in the legal scrutiny.

11. In that view of the matter, the following orders are passed in the writ appeal:

(i) that the order impugned passed by the writ Court is set aside. As a sequel for the reasons stated herein above, the order impugned before the writ Court dated 21.03.2022 also is set aside.



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(ii) Resultantly, there shall be a direction to the respondents, especially the respondents 2 and 3 to reconsider the proposal submitted by the appellant School with regard to the appointment of the Secondary Grade Teacher one J.Vijayakumar with effect from 01.02.2021 and if the appointment is otherwise in order, the same shall be approved and after approval, if the respondents find that there has been excess Teacher in the appellant School, it is open to the respondents to redeploy the Teacher to be approved to any needy School immediately. However such a redeployment would no way hamper the service prospects of the Teacher concerned including the backwages with effect from the date of appointment.

12. With all these observations and directions, this Writ Appeal is ordered accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (C.S.N., J.)
29.01.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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