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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.13941 of 2024

and

W.M.P.Nos.15136 & 26091 of 2024

E.S.S. (ANM) Elementary School

Rep. by its Manager & Correspondent, Dr.E.S.S.Raman

Varagapuram,

Podaturpet,

Pallipat Taluk,

Thiruvallur District.

.. Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
School Education Department,
Secretariat,
Chennai – 600 009.

2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

3.The District Educational Officer (Elementary)
Thiruvallur,
Thiruvallur District.

4.The Block Educational Officer,
Pallipat,
Thiruvallur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India



praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the order dated 24.01.2024 made in Na.Ka. NO.129/A4/2024 on the file of the District Educational officer(Elementary)/third Respondent herein and quash same and consequently, direct the respondents to approve the appointment of Mrs. V.Latha as Secondary Grade Teacher in the petitioner school with effect from 28.08.2020 with all consequential and attendant monetary benefits.

For Petitioner .. Mr.C.Munusamy

For Respondents .. Ms.P.Raja Rajeswari,
Government Pleader.

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order dated 24.01.2024 passed by the District Educational Officer (Elementary) / 3rd respondent and quash the same and directing the respondents to approve the appoint of Mrs.V.Latha as Secondary Grade Teacher in the petitioner school w.e.f., 28.08.2020 and also grant consequential and attendant monetary benefits.

2.In the affidavit filed in support of the writ petition, it had been contended that the petitioner school namely, E.S.S (ANM) Elementary School at Varagapuram, Podaturpet, Pallipat Taluk, Thiruvallur District, had



been established as Primary School. It is an Aided Non-Minority (ANM) school recognized by the Government of Tamil Nadu under the Tamil Nadu Private Schools (Regulation) Act, 1973. This is a two teacher school comprising one headmaster and one secondary grade teacher.

3.It had been contended that a secondary grade teacher, P.V.Parthiban had retired on attaining the age of superannuation. A vacancy had arisen for the said post. Therefore, the petitioner had appointed Mrs.V.Latha who is otherwise eligible to be appointed as a secondary grade teacher in the post of P.V.Parthiban. The petitioner school had appointed Mrs.V.Latha as secondary grade teacher w.e.f. 28.08.2020. She had joined duty on the same date. Thereafter, the petitioner had forwarded a proposal to confirm and approve the appointment of Mrs.V.Latha. Initially, the 3rd respondent had returned the said proposal. The petitioner filed W.P.No.18141 of 2020, wherein a direction was issued to represent the said proposal. The proposal was represented but, it had been rejected and questioning such rejection, the present writ petition has been filed.

4.A counter affidavit had been filed on behalf of the 3rd respondent,



wherein the reason for rejection had been stated that, in accordance with the staff fixation order for the academic year 2018 – 2019, there were four secondary grade teachers post which were found surplus in Pallipat Block and that there were 43 surplus teachers in Thiruvallur Education District. It had been contended that since there was a surplus of staff, the petitioner could not have made a fresh appointment but rather should have drawn on surplus available in Pallipat Block / Thiruvallur Education District and should have accommodated one of those teachers who were otherwise eligible and qualified with respect to their educational qualification and posted them as secondary grade teacher. It is also contended that under Section 35 of the Tamil Nadu Private Schools Regulation Act, 2018, prior permission is required before appointment of any teaching or non-teaching staff of any aided school.

5.The learned counsel for the petitioner, however contended that a learned Single Judge of this Court had examined another writ petition in W.P.No.13760 of 2021 and had passed necessary orders directing approval of appointment.

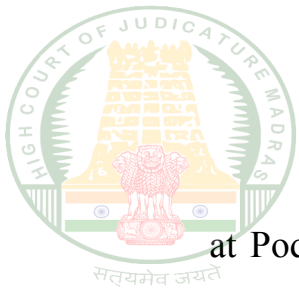
6.But however, the Division Bench of this Court in a batch of matters



in **W.A.(MD) No.76 of 2019** judgment passed on 09.04.2019 had examined the manner in which appointments can be made in schools. A string of directions had been issued. That case is commonly called as ***Iruthaya Amali*** case. The Government had taken up the matter before the Hon'ble Supreme Court in appeal, but the judgment of the Division Bench had been upheld. One of the directions issued by the Division Bench was that if there is vacancy in a stand alone school and if there are surplus teachers in the same block or in the same educational District, then, fresh appointment cannot be made, but the surplus teachers must be drawn from the schools available. This has been the reason stated in the impugned order also.

7.It had also been stated by giving tabular column about the surplus available in Pallipat Block and more specifically in ANM Middle School at Podaturpet, wherein four teachers were found surplus for the academic year 2018 – 2019. The learned Single Judge who had adjudicated W.P.No.13760 of 2021 had been handicapped owing to the fact that the judgment of the Division Bench in W.A.(MD) No.76 of 2019 had not been drawn to the attention of the learned Single Judge. But the judgment of the Division Bench is binding on this Court.

8.The fact that there are four teachers surplus in ANM Middle School



at Podaturpet cannot be either denied or disputed. No further affidavit had been filed questioning that particular stand taken by the respondents. It is clear that the petitioner had appointed a teacher when there was surplus in that particular block and more particularly also in Thiruvallur District.

9.I hold that the impugned order does not suffer from any illegality. The petitioner, even, at this stage, is at liberty to appoint anyone of the surplus teachers from that block or from Thiruvallur Education Region for the purpose of imparting education to the students of the petitioner school.

10.In view of the above reasons, I am not inclined to grant the relief sought in the Writ Petition. Accordingly, the same stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

25.02.2025

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Index: Yes/No

Internet: Yes/No

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C.V.KARTHIKEYAN,J.

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