



W.P.No.17841 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 02.04.2025

ORDER PRONOUNCED ON : 28.04.2025

CORAM

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.17841 of 2022

and

WMP.Nos.17192 and 17193 of 2022

O.Leela Rani

... Petitioner

/Vs./

1.The Commissioner of School Education,
D.P.I.Campus, College Road,
Chennai 600 006.

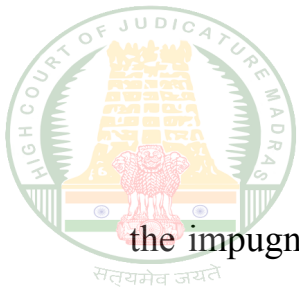
2. The Chief Educational Officer,
Chennai District,
Egmore, Chennai 600 008.

3.The District Educational Officer,
Chennai West Education District,
D.P.I.Campus, College Road,
Chennai 600 006.

4.The Correspondent,
S.K.P.D. Boys Higher Secondary School,
Chennai 600 001.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, call for the records relating to



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the impugned order issued by the 3rd respondent in Na.Ka.No. 321/A3/2022 dated

29.01.2022 and to **QUASH** the same and consequently, directing the Respondents

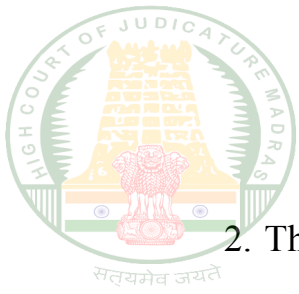
to pass orders for granting approval of promotion of the Petitioner in the post of Headmaster in the 4th Respondent School with effect from 15.12.2021, based on the proposal resubmitted by the 4th respondent School dated 20.01.2022, with all consequential and other attendant benefits, within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran,
Senior Advocate
for Mr.R.Jayamalan

For Respondents : Mr.L.S.M.Hasan Fazil,
Additional Government Pleader
for RR 1 to 3
Mr.B.Balachander,
for Mr.Ashok menon for R4

ORDER

The petitioner has filed the above writ petition challenging the impugned order dated 29.01.2022 of the 3rd respondent, whereunder the approval application for promotion of the petitioner to the post of Headmistress made by the School was returned and for consequential direction to approve the petitioner's promotion with effect from 15.12.2021 and for consequential direction.



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2. The petitioner was appointed as B.T. Assistant (Maths) on 29.06.1995 in K.T.C.T Girls' Higher Secondary School, Chennai, managed by Sri Kanyaka Parameswari Devasthanam and Charities, Chennai, a Linguistic Telugu Minority Institution. The petitioner was promoted as P.G. Assistant (History) in the sanctioned post in the 4th respondent School (Hereinafter referred to as School), which is also managed by Sri Kanyaka Parameswari Devasthanam and Charities, Chennai. The petitioner was promoted vide order dated 06.03.2020, to the post of P.G. Assistant. The petitioner's promotion to the said post was approved by the 2nd respondent on 07.09.2021, with effect from 06.03.2020. Whiles, the post of Headmaster fell vacant due to the retirement of the incumbent on 31.05.2019. Pending regular appointment, the 4th respondent School appointed one Narasimhulu as Headmaster in-charge. Later, the School invited applications from aspiring teachers working in the School for promotion to the post of Headmaster. The petitioner along with 7 other teachers applied for the said post. 2 of the 7 teachers expressed their unwillingness for promotion and therefore were not considered. The interview was conducted for other candidates on 01.02.2021, in which petitioner participated and was successful. Though the petitioner was declared selected vide resolution dated 01.02.2021, of the School on the basis of her merit and eligibility, the said selection was kept in abeyance, as formal approval of her promotion to the post of P.G. Assistant was awaited. The 2nd respondent thereafter



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on 07.09.2021, approved the promotion of the petitioner to the post of P.G.

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Assistant and subsequently, the Management Committee of the 4th respondent School passed the promotion order on 15.12.2021, promoting the petitioner as Headmistress with effect from 15.12.2021. In pursuance of the said promotion order the School submitted a proposal requesting approval for her promotion from 15.12.2021 to the 3rd respondent along with relevant documents giving details of the 5 eligible candidates who participated in the selection. The 3rd respondent vide the impugned order dated 29.01.2022, returned the proposal recommending promotion of another P.G. Assistant teacher, T.Narasimhulu, apart from citing various untenable reasons for returning the proposal. One of the reasons cited in the impugned order was that the petitioner was holding cross major degree and therefore her promotion to the post of P.G. Assistant was not valid. The petitioner relying on Annexure-V of the Rule 15(6) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, submitted that possession of cross major degree was not a bar for promotion to the post of P.G. Assistant. The petitioner further stated that as the petitioner's promotion to P.G. Assistant was already approved by the 2nd respondent on 07.09.2021, with effect from 06.03.2020, the return of the proposal on the ground that the petitioner was holding cross major degree was exfacie illegal, arbitrary and therefore deserved to be set aside. The petitioner left with no other remedy filed the above writ petition for the aforesaid relief.



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3. The 3rd respondent filed a detailed counter on behalf of the respondents 1 and 2. The 3rd respondent contended *inter alia* that, at the time of promotion of the petitioner to the post of Higher Secondary Headmaster, the petitioner's promotion to the post of P.G. Assistant, as on 06.03.2020, was not approved by the Department. According to the respondents, the petitioner's promotion to the post of P.G. Assistant was approved by the 2nd respondent only after promotion to the post of Headmaster and as the promotion was made even prior to the approval of her appointment in the post of P.G. Assistant, it was in violation of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and Rules 1974 and Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules 1977. The respondents further stated that the proposal for approval of the petitioner's promotion to the post of Higher Secondary School Headmaster, was rejected by the District Educational Officer, not only on the ground that the petitioner obtained cross major degrees but also because other teacher's who were more experienced and possessed U.G. and P.G. Degree in the same subject, were not properly considered for promotion. In short, the respondents stated that the promotion of the petitioner was not approved, not only because, Management of the School did not follow the rules properly but also because it did not consider other suitable candidates for the said post. According to the respondents, when other qualified teachers were available in the School, they ought to have been promoted instead of



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promoting the petitioner who was transferred from other School and possessed cross major degrees. The respondents therefore submitted that there were no merits in the writ petition and same deserved to be dismissed.

4. I have heard both the learned counsels and perused the materials available on record.

5. The short point for consideration in the light of the facts narrated above is whether the rejection of proposal for approval of the petitioner's promotion to the post of Headmaster is valid or not?

6. According to the respondents, the petitioner was not eligible for promotion to the post of Headmaster, because she possessed cross major degrees and also because her promotion to the post of P.G. Assistant was not approved at the time of her promotion as Headmaster. The contention of the respondents that at the time when the petitioner was promoted to the post of Headmaster on 01.02.2021, her promotion to the post of P.G. Assistant was not approved by the 2nd respondent, in my view is not correct statement of fact. The 4th respondent called for application from the teachers of the School for appointment to the post of Headmaster, the petitioner along with 6 others applied for the said post. 2 of the teachers withdrew



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from the selection and the remaining were called for interview. The interview was conducted on 01.02.2021, and though a resolution dated 01.02.2021, was passed selecting the petitioner, to the post of Headmaster of the School, no promotion order was passed. The promotion order of the petitioner to the post of Headmaster of the School was passed by resolution of the Management Committee dated 14.12.2021, wherein the earlier resolution dated 01.02.2021 was reiterated and she was given promotion with effect from 15.12.2021. It is therefore seen that on 01.02.2021, the petitioner was only selected for promotion to the post of Headmaster and no promotion order was issued on the said date. In any event, in the approval order of the 2nd respondent dated 07.09.2021, approval was accorded retrospectively from 06.03.2020, on the date the School promoted her as P.G. Assistant. Therefore, the contention of the respondents that the petitioner was promoted even before the approval of her promotion to the post of P.G. Assistant, was made by the 2nd respondent, is incorrect and untenable.

7. As far as possession of cross major degrees is concerned, Rule 15(6) of the Rules stipulates as follows:

“15. Qualifications, conditions of service of Teachers and other persons.-

(6) The Teacher and other persons employed in a private



school shall possess the qualification specified in Annexure V.”

Annexure to Rule 15(6) reads as follows:

IV. QUALIFICATIONS FOR APPOINTMENT AS TEACHERS IN HIGHER SECONDARY SCHOOLS

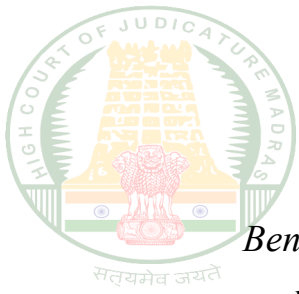
Name of the post	Qualifications
2. Post-Graduate Assistants in Academic subjects.	(1) A Master's Degree or its equivalent standard in the subject in respect of which appointment is made: Provided that persons holding the certificate in Science and Humanities for Graduate Teachers in High Schools shall be considered for appointment as teachers in the subject relating to Science and Humanities: Provided further that, other things being equal, preference shall be given to those who have studied the same subject in which he has obtained the Post-Graduate degree as main subject under Part III in degree level: Provided also that for appointment to certain subjects in which Master's degree are not awarded, persons possessing Master's degree in other subjects shall be considered: Provided also that a Master's degree in Statistics or its equivalent standard in Statistics shall be an alternative qualification for appointment as subject teachers in Maths by promotion; and (ii) B.T. or B.Ed. Degree or its equivalent.



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8. From a reading of the aforesaid, it is clear that possession of cross major degree is not a bar for promotion to the post of P.G. Assistant. The Rule only contemplates preference to the candidates who studied the same subject other things being equal. On this aspect, I would like to refer to the Division Bench judgment of this court in W.A(MD).No.1418 of 2014, which in my view squarely applies to the facts of the present case. The Hon'ble Division Bench while considering identical issue of considering cross major degree as a bar for promotion to the post of P.G. Assistant, held as follows:

“3. The only issue is whether the petitioner, who holds a cross major degree, i.e., who is a B.Sc. [Physics] candidate, holds a Master Degree in English with B.Ed. Qualification, is entitled to be appointed as P.G. Assistant in English. Two contentions are advanced before us. The first one is that in terms of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 and in particular, under Annexure -V of the Rules in Chapter IV(4), the preference is to be given to those persons, who have studied the same subject in degree and Master's degree level. This Rule was considered by the Writ Court and was rightly held that there is no bar, for considering a candidate for appointment, as the Rule provides for grant of preference. Thus, there is no illegality in considering a person with cross major degree. Further, the Writ Court, took into consideration the decision of the Hon'ble Division



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Bench of this Court in Director of School Education, Chennai – 6 and others v. Geldon Wifred Viole and another reported in 2009(2) TLNJ 101 (Civil) and allowed the writ petition. ”

From a reading of section 15(6) along with Annexure-V of Rules in Chapter IV (A) and the Division Bench judgments, the objection of the respondents with respect to cross major degrees is unsustainable. Once it is found that the petitioner was eligible under the Rules and Regulations for promotion to the post of Headmaster the next question that arises for consideration is whether the respondents can interfere with the right of the School, which is a Minority Aided School to choose a person of its choice. The right of the minority educational institution under Article 30 of the Constitution to select the Headmaster cannot be restricted or trampled, except as regards the requirement of eligible qualifications under the rules. The Hon'ble Supreme Court as well as this court have time and again reiterated the above position. The Hon'ble Supreme Court in the case of *Board of Secondary Education & Teaching Training versus Joint Director of Public Instructions, Sagar*, reported in 1998(8) SCC 555 held as follows:

“3. The decisions of this Court make it clear that in the matter of appointment of the Principal, the management of a minority educational institution has a choice. It has been held that one of the incidents of the right to administer a minority educational institution is the selection of the Principal. Any rules which takes



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away this right of the management have been held to be interfering with the right guaranteed by Article 30 of the Constitution. In this case, both Julius Prasad selected by the management and the third respondent are qualified and eligible for appointment as Principal according to rules. The question is whether the management is not entitled to select a person of their choice. The decisions of this Court including the decision in State of Kerala v. Very Rev. Mother Provincial [1970(2) SCC 417] and Ahmedabad St. Xavier's College Society v. State of Gujarat make it clear that this right of the minority educational institution cannot be taken away by any rules or regulations or by any enactment made by the State. We are, therefore, of the opinion that the High Court was not right in holding otherwise. The State has undoubtedly the power to regulate the affairs of the minority educational institutions also in the interest of discipline and excellence. But in that process, the aforesaid right of the management cannot be taken away, even if the Government is giving hundred per cent grant. We need not go into any other question in this appeal.”

9. The Hon'ble Supreme Court in the case of *Secretary, Malankara Syrian Catholic College versus T.Jose and others*, reported in, 2007(1) SCC 386, following the aforesaid judgment as well as other judgment of the Hon'ble Supreme Court held as follows:

“27. It is thus clear that the freedom to choose the person to

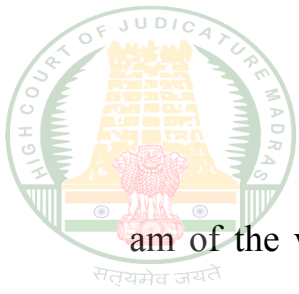


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be appointed as Principal has always been recognized as a vital facet of the right to administer the educational institution. This has not been, in any way, diluted or altered by TMA Pai. Having regard to the key role played by the Principal in the management and administration of the educational institution, there can be no doubt that the right to choose the Principal is an important part of the right of administration and even if the institution is aided, there can be no interference with the said right. The fact that the post of the Principal/Headmaster is also covered by State aid, will make no difference.”

I am therefore of the view that as the petitioner possesses the requisite qualification as per the Rules and Regulations of Tamil Nadu Recognized Private Schools (Regulation) Rules, the choice of the petitioner by the School to the post of Headmistress cannot be questioned by the 3rd respondent.

10. It is intriguing that though the 3rd respondent in the impugned order states that the comparative merits of the petitioner with the other candidates was not produced, nevertheless proceeds to state that one Narasimhulu was equally qualified if not more than the petitioner and so he ought to have been considered. For reasons best known to the 3rd respondent, he has taken inconsistent stand in the impugned order. Be that as it may, on a conspectus of the entire facts of the case, I



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am of the view that the impugned order returning the proposal of the School for approval of the petitioner's promotion to the post of Headmaster cannot be sustained and hence the same is set aside. The matter is remitted to the 3rd respondent for fresh consideration, in the light of the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, discussed herein above and the judgment of the Hon'ble Supreme Court.

11. The 3rd respondent is directed to pass orders on merits and in accordance with law within a period of eight (8) weeks from the date of receipt of a copy of this order.

In view of the above, the writ petition is accordingly allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

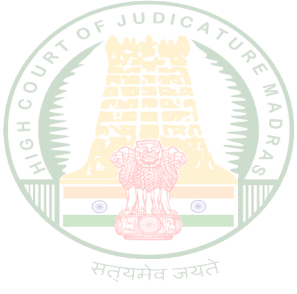
28.04.2025

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Index : Yes / No

Internet : Yes / No

Speaking Order/Non-speaking order
dsn



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WEB **To** COPY

1.The Commissioner of School Education,
D.P.I.Campus, College Road,
Chennai 600 006.

2. The Chief Educational Officer,
Chennai District,
Egmore, Chennai 600 008.

3.The District Educational Officer,
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4.The Correspondent,
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Chennai 600 001.

N.MALA, J.

dsn

PRE-DELIVERY ORDER IN



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Order Delivered on 28.04.2025
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