



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 20.03.2025

CORAM

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

W.P.No.22051 of 2024

and

W.M.P.Nos.24030 & 24031 of 2024

I.Violet Christina

...Petitioner

Vs.

1.The Director of School Education,
DPI Campus,
Chennai – 6.

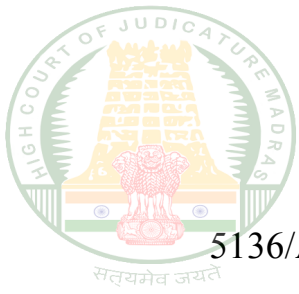
2.The Chief Educational Officer,
Thiruvallur,
Thiruvallur District.

3.The District Educational Officer, (Secondary Grade)
Thiruvallur,
Thiruvallur District.

4.The Correspondent,
CSI Goudie Higher Secondary School,
Thiruvallur – 602 001,
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 records pertaining to the impugned order of the 2nd respondent in Na.Ka.No.



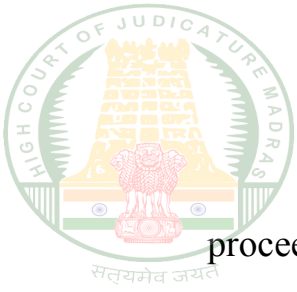
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5136/Aa5/2023 dated 30.01.2024 (served on 03.06.2024) and consequential proceedings by the 3rd respondent in Na.Ka. No. 1137/A5/2022 dated 08.04.2024 (served on 03.06.2024) and another proceedings by the 3rd respondent in Na.Ka. No. 1137/A5/2022 dated 13.06.2024 (served on 01.07.2024) and quash the same and consequently direct the 3rd respondent to approve the appointment of the petitioner as B.T.Assistant (Maths) in the 4th respondent management aided minority school from the date of petitioner joining the said post on 04.07.2012 and pay salary and by considering the proposals of 4th respondent dated 21.10.2020 and 07.01.2021 with all consequential benefits and in accordance with law and within a time to be stipulated by this Court.

For Petitioner	.. Mr.P.Ganesan
For R1 to R3	.. Ms.S.Mythreye Chandru, SGP
For R4	.. Mr.Andrew Vivek Yuvaraj

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order of the 2nd respondent dated 30.01.2024 and the consequential proceedings of the 3rd respondent dated 08.04.2024 and also dated 13.06.2024 and to quash all the aforementioned



proceedings and direct the 3rd respondent / District Educational Officer (Secondary Grade), Thiruvallur District, to grant approval for the appointment of the petitioner as BT Assistant (Maths) in the 4th respondent aided minority school / CSI Goudie Higher Secondary School, Thiruvallur, from the date when the petitioner joined the post on 04.07.2012.

2.In the affidavit filed in support of the writ petition, it had been contended that the 4th respondent school is an aided minority school. The petitioner had been appointed as BT Assistant (Maths) teacher in a regular vacancy, which had arisen owing to the promotion of Mrs.A.Hepsibah, who was the Secondary Grade Teacher and promoted as BT Assistant (Science). The petitioner was appointed on 04.07.2012. The 4th respondent forwarded the proposals to the 3rd respondent. It had been stated that the proposal was then forwarded to the 2nd respondent and the 2nd respondent had rejected the same on the ground that prior permission was not obtained before appointing the petitioner herein. Consequential proceedings had thereafter been passed by the 3rd respondent. It had also been stated that the approval cannot be granted, since the petitioner herein had not qualified herself in the Teachers Eligibility Test.

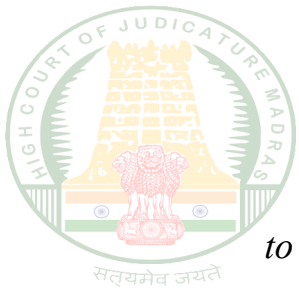


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3. These reasons stated by the 2nd respondent, cannot withstand the scrutiny of this Court, since on the earlier occasion, this Court had examined the right of an aided minority school to appoint teachers in a sanctioned vacancy and had also been held that the respondents cannot question the appointment on the ground that prior permission was not obtained or on the ground that the appointee was not qualified with the Teachers Eligibility Test.

4. A similar issue had arisen for consideration in ***W.P.No.9355 of 2024, P.Vasanthi Vs. The Government of Tamil Nadu, Rep. by its Principal Secretary, Department of School Education, Chennai***, wherein, it had been held as follows:

“6. The learned Senior counsel on behalf of the petitioner pointed out that as a minority institution, more particularly as a school governed by corporate management and the fifth respondent being one of several other schools, the ratio laid down by the Division Bench in the judgment reported in 2021 SCC Online Mad 1285 in W.A.(MD) Nos. 76 of 2019 batch, The Secretary to Government and others vs. Iruthaya Amali and another) would apply. It had been contended that the Division Bench had occasion

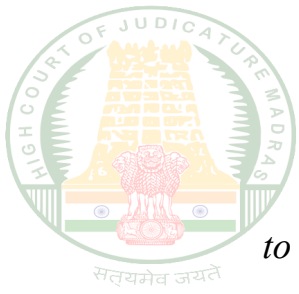


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to examine the issues raised by various categories of schools and with specific reference to minority schools and had finally held as follows:

"Like that insofar as aided minority institutions are concerned, if it is a standalone 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 or 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."

7. It is also pointed by the learned Senior Counsel that as against this judgment of the Division Bench, the respondent herein had filed a Special leave to Appeal (C) No. 15702/2021, The Secretary



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*to Government, Government of Tamil Nadu and others vs. Iruthaya Amali and another, and the Hon'ble Supreme Court had taken up the said matter along with similarly filed Special Leave Petitions and by an order dated 16.02.2024, had directed that the matter could be closed and relegated the parties back to the Madras High Court. The learned Senior Counsel then placed reliance on the Division Bench judgment of the Madurai Bench of Madras High Court in **W.A. (MD) No.125 of 2022, The State of Tamil Nadu, represented by its Secretary, Department of School Education, Chennai, vs. The Correspondent, St. John Vianney's Girls Higher Secondary School, Kanyakumari District**, wherein, again the Division Bench had affirmed the findings rendered by the earlier Division Bench. Thus it is contended by the learned Senior Counsel that the matter having been decided that the issues raised by the respondent would not apply to the minority institution particularly with respect to the schools under the same corporate management, the appointment of the petitioner could not be considered as surplus. In this connection, the attention of this Court had been drawn to the vacancy list of the fifth respondent school as on 2019-2020 wherein it had been stated that the number of sanctioned post for Tamil Teacher was seven and that there were no vacancies. Similarly, the vacancy list for 2022-2023 had also been pointed out, wherein it had again been stated that for Tamil Teachers B.T. Assistant, the total sanctioned strength was seven and there were no vacancies. It is also pointed out that the student strength of the*



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school is 2541 and therefore there was an immediate necessity for appointment of a teacher. Therefore, it is contended that the petitioner had been appointed only in an approved sanctioned post and thereafter there had been no vacancy and therefore, the petitioner could not be considered as being surplus to the sanctioned strength.

8. With respect to the necessity for having a Teachers Eligibility Test qualification, the learned Senior Counsel pointed out that matters were pending before the Hon'ble Supreme Court in this regard and stated that the Government had withdrawn the Special Leave Petitions filed before the Hon'ble Supreme Court by which, the Government had challenged the stipulations by this Court that for minority institutions, the necessity to have a Teachers Eligibility Test cannot be a ground to deny approval of appointment. It is thus contended that both the reasons stated in the impugned order would not stand the scrutiny of this Court."

5. It is thus seen that prior permission is not required before appointment in an existing vacancy by aided minority school of a teacher and there cannot be any insistence for being qualified with the Teachers Eligibility Test.



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6. In view of these reasons, the impugned orders are set aside. A direction is given to the 3rd respondent to grant approval of the appointment of the petitioner in the 4th respondent school as B.T. Assistant (Maths) on and from 04.07.2012 in the existing vacancy. This Writ Petition stands allowed. No costs. Needless to point out that monetary benefits will have to be sanctioned and paid to the petitioner. The entire exercise of grant of approval and disbursement of monetary benefits must be granted within a period of two months from the date of receipt of a copy of this Order. Consequently, connected Writ Miscellaneous Petitions are closed.

20.03.2025

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Index: Yes/No

Internet: Yes/No



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C.V.KARTHIKEYAN,J.

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