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W.P.No.35023 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025

CORAM

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

W.P.No.35023 of 2024

S.Christina Rani

.. Petitioner

Vs.

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

2.The Chief Educational Officer,
Office of the The Chief Educational office,
Salem.

3.The District Educational Officer,
Office of the District Educational office,
Salem Rural,
Salem District.

4.The Correspondent,
Fathima Girls' Higher Secondary School,
Omalur 636 455,
Salem District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, directing the 2nd respondent to accept



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the reply of the 4th Respondent dated 25.03.2022 to the proceedings of the 2nd Respondent dated 19.06.2020 in . No.Oo. Moo no. 5537 /Aa4/ 2020 and consequently direct the respondents to grant approval to the petitioner in the post of B.T Assistant (Science) with effect from 03.10.2016 in line with the Judgement of this Court in W.A (MD) No. 1350 of 2017 and W.P. (MD) No.17955 of 2023 dated 01.11.2023 whereby this Court has clearly laid down the law that for the purpose of upgradation in a sanctioned post no prior permission is necessary and by taking into account the fact the petitioner has been appointed prior to the issuance of the G.O Ms. No. 165 dated 17.09.2019.

For Petitioner : Ms.Dakshayani Readdy, Senior Counsel
for Ms.S.Suneetha

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the second respondent/the Chief Educational Officer to accept the reply of the fourth respondent/the Correspondent, Fathima Girls' Higher Secondary School, Omalur, dated 25.03.2022 with respect to the proceedings of the second respondent, dated 19.06.2020 and to direct the respondents to grant approval to the petitioner in the post of B.T Assistant (Science) with effect from 03.10.2016.



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2.The fourth respondent school is a minority institution. As a minority institution, they can appoint teachers and for such appointments, they need not get prior permission. The petitioner herein had been appointed as B.T Assistant (Science) with effect from 03.10.2016. The secondary grade teacher post had been upgraded as B.T Assistant (Science) and insofar as the fixation of sanctioned strength for the year 2017-18, the post B.T Assistant (Science) was shown as vacant. The respondents had consistently shown the post of B.T Assistant (Science) as vacant even for the years 2018-19 2019-20, 2022-23 and 2023-24. As stated the petitioner had been appointed on 03.10 2016. It is submitted that the second respondent had granted permission for upgradation of the post to B.T Assistant (Science) by 08.11.2017, but had stated that it should be filled only among the surplus teachers from the other schools. This is so because the fourth respondent school is not a standalone school, but administered by the Immaculate Heart of Mary Provincialate.

3.The learned Special Government Pleader however stated that since



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prior permission had not been obtained, the appointment of the petitioner cannot be approved by the respondents.

4.The issue is no longer *res integra*. The same issue had been examined by a learned Single Judge of the Madurai Bench of this Court, in *W.P.No.17955 of 2023* in the case of *Correspondent, St.Joseph's Girls Higher Secondary School, Madurai, Vs. State of Tamil Nadu and three others*, wherein, by an order dated 01.11.2023, the learned Single Judge, after examining catena of judgments, had finally held as follows:

26.The order of the learned Single Judge in the judgments reported in 2006 (5) CTC 504 (The corporate Manager, CSI Corporate Schools Vs. The State of Tamil Nadu), 2007 (2) MLJ 760 (Correspondent, Britannia Higher Secondary School, Chennai Vs. State of Tamil Nadu), 2012 SCC Online Mad 1112 (R.C.Susai Higher Secondary School, Rep. by its Correspondent, Kazhugumalai, Tuticorin District Vs. The Government of Tamil Nadu Represented by its



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Secretary to Government and others) and the judgment in WP.(MD).No.2750 of 2012 (R.Emersan Udaisingh Vs. The State of Tamil Nadu and others), dated 22.08.2013 have been accepted by the State and no appeals have been filed. It is also brought to the notice of the Court that in all these concerned cases, orders have been issued to the teachers concerned in compliance with the orders of the Court. The judgments of the various Division Benches has also not been challenged by the State before the Hon'ble Supreme Court and they have been complied with. In such circumstances, the State is duty bound to direct its authorities not to disapprove the appointment of the teachers citing the subject roster or non obtaining of prior approval for ugradation.

Conclusion:

27.In view of the above said facts, the impugned order of return passed by the fourth respondent dated



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28.06.2023 citing the non-compliance of G.O.Ms.No.144, School Education (D1) Department, dated 04.07.2008 is hereby set aside and a direction is issued to the respondents to approve the appointment of the writ petitioner within a period of eight weeks with effect from 01.06.2018. The Writ Petition stands allowed with the said observations. No costs. Consequently, connected miscellaneous petition is closed.

5.It had also been stated that the appeal filed against the said the order had been dismissed in W.A (MD) No.201 of 2020, by judgment dated 14.08.2020. The position of law being confirmed by the Division Bench, I hold that the petitioner is entitled for the relief and the second respondent must issue proceedings approving the appointment of the petitioner herein as B.T Assistant (Science) with effect from 03.10.2016. The petitioner is also entitled for all service and monetary benefits on and from that particular date.



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6. Accordingly, the impugned order is set aside and the writ petition

stands allowed. No costs. Consequently, connected Writ Miscellaneous

Petitions, if any, are also closed.

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19.03.2025

Index: Yes/No

Internet: Yes/No

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C.V.KARTHIKEYAN,J.

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