



W.P(MD)No.4209 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2025

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.4209 of 2025

and

W.M.P(MD)Nos.3025 & 3026 of 2025

The Correspondent,
St. John's Primary School,
Devakottai,
Sivagangai District.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.

2.The Director of Elementary Education,
College Road, Chennai-600 009.

3.The District Educational Officer,
(Elementary Education),
Devakottai, Sivagangai District.

4.The Block Educational Officer,
Devakottai, Sivagangai District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the third respondent District Education Officer in Na.Ka.No.1972/A1/2023, dated 20.01.2025, quash the same and further direct the respondents herein to approve forthwith the appointment of Sr.M.Arul Mary as Secondary Grade Teacher in the petitioner's School, namely, St.John's Primary School, Devakottai, with effect from 02.03.2020 and disburse the grant-in-aid towards her salary and allowances with effect from the said date with all attendant benefits, and pass such other or further orders as this Court.

For Petitioner : M/s.A.Amala

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The writ petition has been filed challenging the order passed refusing the grant of approval for the appointment of Secondary Grade Teacher and to consequently disburse the grant-in-aid towards salary and allowances with effect from the said date with all attendant benefits.



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2. M/s.A.Amala, learned Counsel appearing for the petitioner would submit that the petitioner is a recognized religious minority institution. She would further submit that a vacancy had arisen in a sanctioned post due to the retirement of a teacher in the post of the Secondary Grade. Such vacancy had arisen on 01.12.2019 which had led to the appointment of a teacher with effect from 02.03.2020. A proposal was submitted to the third respondent through the fourth respondent for approval of the appointment so made. She would submit that the same was returned on 10.09.2020 with a direction to produce the certificate indicating that there was no surplus teacher in the Secondary Grade and to produce the teacher eligibility test certificate of the appointed teacher. The said proceedings were challenged by the appointed teacher before this Court and the learned Single Judge considering the facts of the case, allowed the said writ petition along with a batch of other cases holding that the appointment should be approved. An intra-Court appeal preferred by the Department was allowed but however, remitting the matter back to the authority for fresh consideration with liberty to the petitioner to submit necessary and relevant documents to be submitted by



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the petitioner, thereafter, enclosing all the relevant documents including the status of the petitioner School with regard to surplus teacher. however, again by the order impugned, the proposal of the petitioner had been rejected by holding that the petitioner had not produced that the sanctioned strength of the joint management of the School and that the teacher so appointed did not have the prescribed qualification of TET.

3. Attacking the order impugned, she would submit that the requirement of the sanctioned strength of a School which is part of a Corporate / Joint Management had come in by way of a judgment of the Hon'ble Division Bench of this Court in the case of ***Secretary to Government and Others Vs. Iruthaya Amali and Another*** reported in ***2021 SCC Online Mad 1285*** which was delivered on 31.03.2021. Therefore, she would submit that the principle laid down in the said judgment cannot be applied to the facts of the case of the petitioner as the appointment had been made as early as in March, 2020. In that context, she would also place reliance upon the judgment of this Court made in W.P(MD)No.18134 of 2024, dated 09.12.2024. She would contend that factually there has been no surplus teacher in the petitioner School.



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4. The learned Counsel appearing for the petitioner would further contend that the issue with regard to the appointment of teachers, who do not possess TET certificate in respect of the minority institution had been settled by the Hon'ble Apex Court in ***Pramathi Educational and Cultural Trust and Others Vs. Union of India [2014 (4) MLJ 486 (SC)]***. Therefore, she would submit that the requirement of TET, teacher appointed in respect of the petitioner institution cannot be insisted upon. She would further place reliance upon a letter of the Principal Secretary to Government, School Education Department, dated 16.04.2025 and contend that the Government had taken policy decision to consider the proposal in respect of teachers, who were appointed prior to 13.01.2023 without TET qualification which would be subject to the decision of the Hon'ble Apex Court in that regard. Therefore, she would submit that both the reasons that had been stated in the order of rejection are misconceived and therefore, is liable to be interfered with.



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5. Countering her argument, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents would submit that the issue of TET qualification is now pending consideration by the Larger Bench of the Hon'ble Apex Court. He would submit that the decision of *Pramathi's case* therefore, cannot be applied as claimed by the petitioner. He would further submit that even though, there is no surplus teacher in the petitioner School, there are about four surplus teachers in the Corporate Management, of which, the School belongs to. In such an event, it is the duty of the petitioner School to draw the surplus teachers from the other Schools in the Corporate Management to which the School belongs and therefore, the rejection order passed cannot be said to be unfair and therefore, he prays this Court to dismiss the writ petition.

6. I have heard the rival submissions made by the learned Counsels on either side and perused the materials available on record.

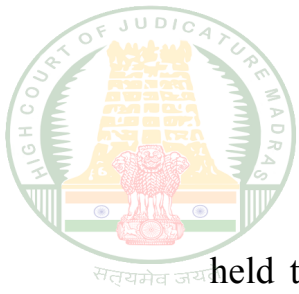


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7. The claim for approval had been rejected on two grounds. As regards to the issue relating to qualification of TET, it is to be noted that the same is now pending consideration by a Larger Bench of this Court. That apart, from the letter issued by the Principal Secretary to Government, School Education Department, dated 16.04.2025, it could be seen that the Government had taken a decision to approve the proposal that was pending as on 13.01.2023 subject to the outcome of the orders to be passed by the Hon'ble Apex Court. The Hon'ble Division Bench of this Court also taking note of the said communication had directed the authorities to pass appropriate orders on the same. In the present case also, the petitioner had sent for approval of appointment of a teacher who had been appointed as early as on 02.03.2020, which is before the cut off date as envisaged in the letter, dated 16.04.2025, namely, 13.01.2023.

8. As regards to the other objection, namely, the petitioner institution had not provided the surplus teachers as per the Corporate / Joint Management, it is to be seen that the learned Single Judge of this Court in W.P(MD)No.18134 of 2024 in its order, dated 09.12.2024 had



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held that the surplus teacher in the Corporate / Joint Management can only be considered in respect of appointments made after 31.03.2021, the date on which this Court had delivered judgment in a batch of writ appeal in W.A(MD)Nos.76 of 2019 etc. The Hon'ble Division Bench of this Court in W.A(MD)No.2134 of 2024, dated 29.10.2024 had held that the judgment prescribing surplus teachers in Corporate Management can only be taken from the date of the judgment in W.A(MD)Nos.76 of 2019 etc batch only and not to appointments made prior to the said date. The said view has also been followed by another Division Bench of this Court in W.A(MD)No.253 of 2025, dated 29.01.2025. In the present case, it is admitted that the petitioner had been appointed as a teacher prior to the said cut off date.

9. A counter had also been filed by the third respondent, wherein, there is a specific admission of fact that for the academic year 2019-2020 and 2020-2021, there has been no surplus post in the petitioner School but had relied upon the Corporate surplus in the Joint Management of the Corporate Management of the School. For better appreciation, the relevant paragraph is extracted as follows:



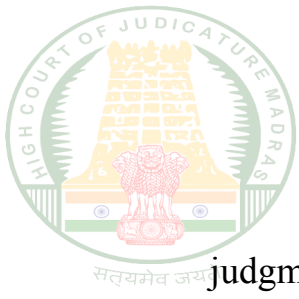
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"5. I respectfully submit that the fact being so, during the appointment of Mrs.Arul Mary there were 4 surplus teachers in the same Management for the year 2019-2020 & 2020-2021 as follows:

School Name	Name of Surplus Teachers
St.Francis Middle School-Sivagangai District	1.Mrs.Sirumalar, Secondary Grade Teacher 2.Mrs.Nirmalajothi, Secondary Grade Teacher
St. Cecilia's Middle School, Manamadurai, Sivagangai District	1.Mrs.Jeeva Daisy, Secondary Grade Teacher 2.Mrs.Jeyamary, Secondary Grade Teacher

Though there was no surplus post in petitioner school for the year 2019-2020 & 2020-2021, on other schools, administered by the Congregation of Immaculate Conception Management, there were 4 surplus post."

10. Since it has been admitted that there has been no surplus in the petitioner's School during the said academic year in which the teacher has been appointed for which approval is sought for and also taking into consideration, the cut off date is to be 31.03.2021 the date on which the



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judgment had been made by the Hon'ble Division Bench of this Court in a batch of writ appeals in W.A(MD)Nos.76 of 2019 etc, the reason assigned by the respondents in rejecting the claim of the petitioner on that ground also have to fail.

11. In such view of the matter, the writ petition stands disposed of with the following directions:

“a) The respondents shall grant inprinciple approval of the proposal sent by the petitioner for the appointment of the Secondary Grade Teacher Sr.M.Arul Mary.

b) Such approval shall be subject to the orders to be made by the Hon'ble Apex Court.

c) On grant of approval, the petitioner would be entitled for the sanctioned salary from the date of this order and if the qualification is held into favour of the petitioner by the Hon'ble Apex Court, then the approval should revert back to the date of appointment of the petitioner and the arrears of salary from the date of appointment till the date of this order shall be paid by the respondents, within a period of four (4) weeks of the order passed by the Hon'ble Apex Court.”



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12. The writ petition stands disposed of with the above directions.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

11.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-600 009.
- 2.The Director of Elementary Education,
College Road, Chennai-600 009.
- 3.The District Educational Officer,
(Elementary Education),
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K.KUMARESH BABU, J.

BTR

Order made in
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11.09.2025