



W.P.(MD)No.4532 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : **07.03.2025**

Ordered on : **08.04.2025**

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.4532 of 2025
and WMP(MD)Nos.3253 and 3256 of 2025

The Correspondent,
Sacred Heart Higher Secondary School,
Thiruvarangam – 623 712
Ramanathapuram District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600009.

2. The Director of School Education,
College Road,
Chennai - 600009.

3. The Chief Educational Officer.
Ramanathapuram,
Ramanathapuram District- 623501.

4. The District Educational Officer,
Secondary Education,
Ramanathapuram,
Ramanathapuram District.

... Respondents



W.P.(MD)No.4532 of 2025

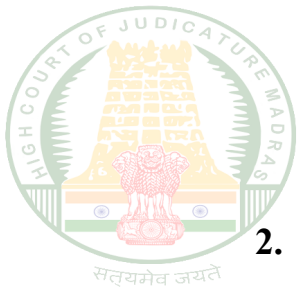
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent direct Educational Officer in O.Mu.No.1575/A5/2024 dated .01.2025 quash the same and further Direct the respondents herein to approve forthwith the appointment of Mr.A.Saris Antony Samy as PG Assistant Maths in the petitioners school namely Sacred Heart Higher Secondary School, Thiruvaramangam from the date of his appointment i.e., 26.07.2021 and disburse the grant-in aid towards his salary and allowance w.e.f the said date.

For Petitioner : M/s.A.Amala

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned proceedings issued by the fourth respondent dated01.2025 and for consequential direction to the respondents herein to approve forthwith the appointment of Mr.A.Saris Antony Samy as PG Assistant (Maths) in the petitioner school from the date of his appointment i.e., 26.07.2021 and disburse the grant-in aid towards his salary and allowance.



W.P.(MD)No.4532 of 2025

2. Heard the learned counsel for the petitioner and Mr.Siddharthan, learned Additional Government Pleader appearing for the respondents and carefully perused the materials available on record.

3. The petitioner school is recognized and aided minority educational institution. The school is presently having 618 students. There are 36 teaching and 5 non-teaching staff, who received aid from the Government. Other than that, one teaching staff is working in the self-financed section. The single post of P.G Assistant (Maths) in the petitioner school fell vacant on 09.06.2021 due to the demise of the previous incumbent Mr.M.Lazar. In that vacancy, the management of the school, basing on the merit and ability, appointed Mr.A.Saris Antony Samy in the post of P.G Assistant (Maths) with effect from 26.07.2021 and he joined duty on the same day and was working continuously. The school submitted proposal to the third respondent through the fourth respondent on 19.08.2021 requesting to approve the appointment of Mr.A.Saris Antony Samy as P.G.Assistant(Maths) and to disburse grant-in-aid towards his salary. The proposal was returned number of times and the petitioner re-submitted number of times. Finally, the fourth respondent vide impugned proceedings in O.Mu.No.1575/A5/2024 dated .. 01.2025 rejected the proposal



W.P.(MD)No.4532 of 2025

directing the school to re-submit after complying the defects as stated herein

WEB under: COPY

i)To enclose a copy of service register after making necessary entries to the effect that the teachers working in the schools eligible for promotion of P.G Assistant (Maths) expressed their non-willingness for the promotion of PG.Assistant(Maths).

ii)To enclose the staff fixation for the academic year 2024-2025.

Aggrieved by the said proceedings, the present writ petition is filed.

4. The learned counsel for the petitioner submits that the reason assigned by the fourth respondent in returning the proposal of the petitioner is untenable and unconstitutional. The learned counsel contends that when the staff fixation is available with the respondents, seeking to enclose the same is arbitrary and unjust. The learned counsel also found fault with the action of the respondents 3 and 4 in seeking the non-willingness letter from other eligible teachers for the promotion of P.G.Assistant (Maths) and to that effect making entry in their service register would interfere with the minority right to the school in making appointment to the post of P.G Assistant (Maths). The learned counsel for the petitioner contends that the school, being the minority educational institution, has been guaranteed by Indian constitution to administer the educational institutions, which includes right to make the appointment of their choice. But

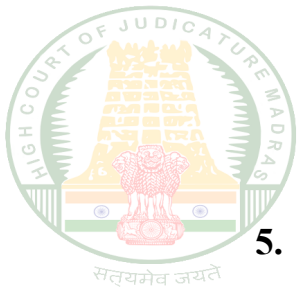


W.P.(MD)No.4532 of 2025

the action of the respondents 3 and 4 would interfere in the right of the school in

making eligible and meritorious candidate of their choice to the post of P.G.

Assistant (Maths). The learned counsel submits that the right to appoint teachers has been recognized as an essential facet and an unenviable of the right of administration guaranteed to minority educational institution under the Constitution of India. The learned counsel further contends that when any appointments are made in the minority educational institutions, it is the duty of the Department to check whether the said appointment is made in the sanctioned vacancy and whether the appointee possessed the requisite qualification prescribed in Tamil Nadu Recognized Private Schools (Regulation) Act and Rules. When this being the legal position, the respondents cannot deny the approval of appointment as sought in the proposal sent by the petitioner school. The learned counsel submits that the school is having single post of P.G.Assistant (Maths) there are 100 students studying Maths subject in 11th and 12th standards, who are going to appear for their public examinations. If the respondents are delayed to approve the appointment of the teacher, appointed by the school, who is working without salary since 26.07.2021, would be put into hardships. Accordingly, the learned counsel sought to quash the impugned order by allowing the writ petition.



W.P.(MD)No.4532 of 2025

WEB COPY

5. The learned Additional Government Pleader appearing for the respondents would submit that as per Rule 15 of the Tamil Nadu Recognized Private Schools (Regulation) Rules, the Government can approve the appointment made by the school only after taking into consideration the over all factors. Therefore, whenever eligible teachers are available to be appointed on promotion, the school ought not to have fill the vacancy through the direct recruitment. The learned Additional Government Pleader submits that institution should have sought for approval for promoting the existing eligible teachers and thereby reducing the number of surplus teacher. In view of the same, sought to dismiss the writ petition.

6. On perusal of the record, it appears that a single post of P.G.Assistant (Maths) in the petitioner school fell vacant on 09.06.2021 due to the demise of the incumbent. In that vacancy, the petitioner school appointed Mr.A.Saris Antony Samy with effect from 26.07.2021. Thereafter, the school submitted proposal seeking approval of the said appointment. It appears number of times, the proposal was returned and the same was re-submitted. After prolonged correspondence, finally the said proposal was returned vide impugned proceedings raising two objections. One of the objection is to enclose the staff



W.P.(MD)No.4532 of 2025

WEB COPY

fixation in the academic year 2024-2025. The second objection is to enclose a copy of the service register after making necessary entries to the effect that the teachers working in the school eligible for promotion expressed their non-willingness for the promotion. As rightly pointed by the learned counsel for the petitioner, when the staff fixation is available with the respondents, seeking to enclose the same and returning the proposal on that ground is illegal, unjust and arbitrary. With regard to the second objection raised by the respondents to enclose non-willingness letters from the eligible teachers after making necessary entries in the service register, the contention of the petitioner is that the procedure of getting non-willingness certificate of eligible teachers working in the school for the promotion of P.G.Assistant (Maths) has no legal sanctity.

7. That apart, time and again this Court has held on several occasions that the procedure contemplated in Rule 15(4) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, is not required to be followed by minority institutions and the act of the respondents in insisting to follow the same would amount to violation of Article 30(1) of the Constitution of India.

8. The Hon'ble Division Bench of this Court in the case of **Eka**



W.P.(MD)No.4532 of 2025

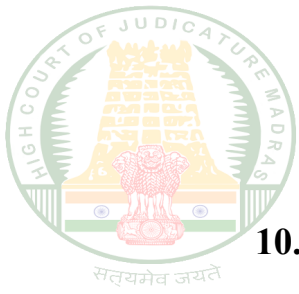
Ratchagar Sabai Higher Secondary School represented by its

WEB CORRESPONDENT Tuticorin District and others Vs. K.Sumathi and another

reported in **(2008) 1 MLJ 322** has dealt with a similar case and the relevant portion of which is extracted as follows:

"15. Judged in light of the observations made by the Supreme Court in Secretary, Malankara Syrian Catholic College v. T.Jose (supra), the provisions which lay down qualification for appointment of teachers are obviously required to be followed; whereas the procedure contemplated in Rule 15(4) of the Rules severely constricting the scope of the discretion of the Management in appointment of teachers and confining the same to a particular source would be violative of Article 30(1). Therefore, such provisions are not required to be followed by the minority institutions. In view of the above, we cannot agree with the view expressed by the learned single Judge under the impugned judgment and such decision is liable to be over-turned".

9. In view of the above, in the considered opinion of this Court, it has to be held that the order impugned in the present writ petition is illegal, unjust and against the settled law and it is liable to be quashed.



W.P.(MD)No.4532 of 2025

10. Accordingly, this writ petition is disposed of with the following

WEB directions:

i)The impugned order in O.Mu.No.1575/A5/2024 dated . ..01.2025 of the fourth respondent is hereby quashed.

ii) The respondents 3 and 4 are directed to approve the appointment of Mr.A.Saris Antony Samy as P.G.Assistant (Maths) in the petitioner school from the date of his appointment and disburse the grant-in-aid towards his salary and allowance within a period of four weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

08.04.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
CM



W.P.(MD)No.4532 of 2025

WEB COPY

To:

1. The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600009.
2. The Director of School Education,
College Road,
Chennai - 600009.
3. The Chief Educational Officer.
Ramanathapuram,
Ramanathapuram District- 623501.
4. The District Educational Officer,
Secondary Education,
Ramanathapuram,
Ramanathapuram District.



WEB COPY



W.P.(MD)No.4532 of 2025

BATTU DEVANAND, J.

CM

W.P.(MD)No.4532 of 2025
and WMP(MD)Nos.3253 and 3256 of 2025

08.04.2025