



W.P.(MD)No.8501 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.04.2025

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.8501 of 2025

and

W.M.P.(MD) Nos.6346 and 6348 of 2025

The Correspondent,
L.M.P.C.Higher Secondary School,
Puthalam,
Kanyakumari District.

... Petitioner

Vs.

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

2.The Director of School Education,
College Road, Chennai 600 006.

3.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer (Secondary),
Nagercoil, Kanyakumari District.

... Respondents



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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 DEO in Na.Ka.No. 2263/Aa3/2024 dated 09.12.2024, quash the same and further direct the 3rd and 4th respondents to approve forthwith the appointment of V.Ani Thaya as PG Assistant (Mathematics) in the petitioner school w.e.f., 01.04.2024 with all attendant benefits including arrears of salary.

For Petitioner : Mr.K.Ragatheesh Kumar

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed by the Management of an aided Minority Institution administered by the Corporate Management, challenging the order passed by the fourth respondent herein on 09.12.2024 wherein, the proposal of the management to approve the appointment of the petitioner for the post of PG Assistant (Mathematics) has been returned.

2.A perusal of the impugned order reveals that the proposal submitted by the management has been on the following grounds :

(a) The correspondent is requested to submit a report explaining the



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reasons for making direct appointment without giving promotion to the qualified BT Assistant (Maths) serving in the school.

(b) If such teachers are unwilling to get promotion, the Correspondent has to obtain unwillingness letters from the concerned teachers and communicate the same to the office.

(c) A copy of the relieving order of the retired teacher counter signed by the District Education office has to be enclosed in the scale register.

3. Thereafter, the school resubmitted the proposal on 03.01.2025 to approve the appointment of the petitioner for the said post. However, there is no response. Hence, challenging the above said order, the present writ petition has been filed.

4. According to the learned counsel appearing for the writ petitioner, the impugned proceedings issued by the fourth respondent refusing to approve the appointment of the petitioner is highly arbitrary and illegal. As the appointment if made against the sanctioned vacancy assessed for the Government and the incumbent appointed possesses full qualification for the post of PG Assistant (Mathematics), the fourth respondent is bound to approve the appointment.



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5. *Per contra*, the learned Government Advocate appearing for the respondents herein contended that the petitioner school being administered by corporate management, it has to be identified whether there are any surplus teachers in the other schools administered by the corporate management unless they follow the procedure contemplated under Serial No.9 of Annexure V to Tamil Nadu Private Schools (Regulation) Rules, 2023, approval cannot be granted.

6. I carefully considered the submissions made on either side and perused the material records.

7. As far as following the Rule 15(4) equivalent to Rule 28(5) of Tamil Nadu Private Schools Regulation Rules, the Hon'ble Division Bench in the judgment reported in 2007(4) LW 617, has categorically held that a minority institution need not follow Rule 15(4) of Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974. Rule 28(5) read with Annexure V in Serial No.9 is nothing but the replication of Rule 15(4) under the old Rules. Therefore, the petitioner institution being a minority institution is not expected to follow



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the said procedure in making appointments.

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8.In view of the above said facts, the order impugned in this Writ Petition is set aside and the fourth respondent herein is directed to forward the files to the third respondent within a period of four weeks from the date of receipt of a copy of this order. The third respondent is directed to approve the appointment of the writ petitioner within a period of 12 weeks from the date of receipt of the files from the fourth respondent.

9.With the above direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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

25.04.2025

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To

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- 2.The Director of School Education,
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- 3.The Chief Educational Officer,
Nagercoil,
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- 4.The District Educational Officer (Secondary),
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BATTU DEVANAND, J.

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