

W.P(MD)No.11817 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P.(MD)No.11817 of 2025

and

W.M.P.(MD).Nos.8722 & 8723 of 2025

Correspondent
St. Mary's Higher Secondary School,
Vickramasingapuram-627425,
Tirunelveli District.

...Petitioner

Vs.

1. The State of Tamilnadu,
Rep. by its Secretary,
Department of School Education,
Fort. St. George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai-600 009.
3. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
4. The District Educational Officer,
(Secondary Education),
Tirunelveli, Tirunelveli District.

...Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, in the nature of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent Chief Educational Officer in Na.Ka.No.10455/a2/2024 dated 06.02.2025 and the consequential impugned proceedings of the 4th respondent District Educational Officer in Na.Ka.No.2191/a3/2024 dated 03.2025 and quash the same and further direct the respondents herein to approve forthwith the appointment of Mr.R.Selvakumar as PG Assistant Botany in the petitioner's school namely, St. Mary's Higher Secondary School, Vickramasingapuram from the date of his appointment i.e., 12.04.2024 and disburse the grant-in-aid towards his salkary and allowance w.e.f., the said date.

For Petitioner : M/s.A.Amala

For Respondent Nos.1 to 4 : Mr.S.Raja
Additional Government Pleader

ORDER

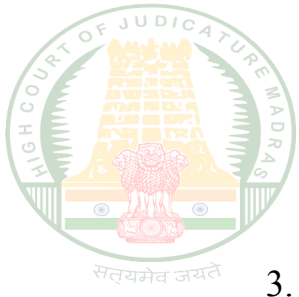
Heard, the learned Counsel appearing for the petitioner, learned Additional Government Pleader appearing for the respondents and carefully perused the materials available on record.



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2. The petitioner school is a aided minority Institution. One post of PG Assistant Botany in the petitioner's school fell vacant on 01.09.2022, due to the transfer of the previous incumbent Br.J.Kasmir. In that vacant post, one R.Selvakumar, was appointed as PG Assistant Botany on 12.04.2024. A proposal was sent to the respondents for the approval of the appointment of PG Assistant Botany has been rejected by impugned proceedings dated 06.02.2025. The reasons stated for rejection is no surplus teacher in the aided Higher Secondary Schools under the Corporate Management, as per Rule 28(4) of TamilNadu Private Schools (Regulation) Rules, 2023, if there are teachers with post Graduate qualification available in the Corporate Management firstly they should be promoted. Consequential to the proceedings of the third respondent, the fourth respondent issued proceedings dated 10.03.2025, informed the petitioner to resubmit the proposal along with certificate stating there is no surplus teachers in any of the schools coming under the Corporate Management and the name list of teachers working in the school, their qualification, among them if any teacher is possessing Post Graduate degree in Botany consent letter of relinquishing the promotion and that the said relinquishment has to be recorded in the Service register and the same has to approved by the Correspondent and to resubmit the proposal.



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3. The learned Additional Government Pleader appearing for the respondents submits that the petitioner school has to submit the particulars sought by the Respondent No.3 and 4 while resubmitting the proposal. At present, the proposal is not rejected and it is only returned and as such interference of this Court at this stage is not required.

4. Heard the submissions of the respective counsels and carefully perused the materials available on record.

5. In view of the facts and circumstances of the case, this court is of the considered opinion that the issue involved in the present writ petition is no longer *res integra*. On several occasions this Court considered this issue and passed orders.

6. The learned Counsel for the petitioner has also drawn attention of this Court order dated 08.04.2025 passed in W.P.(MD).No.4532 of 2025, wherein, the same grounds i.e., approval of the appointment in minority educational institution is rejected and the same was quashed by this court, directing the respondents therein to grant approval to the petitioner therein. The relevant portion of the said order is extracted hereunder:



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"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 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.



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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 Ratchagar Sabai Higher Secondary School represented by its 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"



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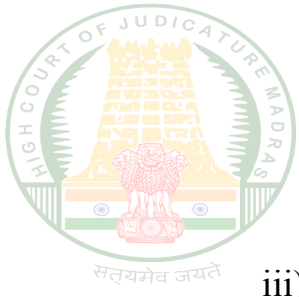
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7. In view of the above, this Court is of the considered opinion that the order impugned in the writ petition is illegal and unjust and against the settle law and it is liable to quashed.

8. Accordingly, this writ petition is allowed with the following directions :

i) The order passed by the third respondent dated 06.02.2025 and the consequential order passed by the fourth respondent dated 10.03.2025 are hereby quashed.

ii) The respondent Nos.3 and 4 are directed to approve the appointment of the Mr.R.Selvakumar, as PG Assistant Botany in the petitioner's school from the date of his appointment and disburse grant-in-aid towards his salary and allowance.



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iii) The said exercise shall be completed 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.

25.04.2025

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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To,

1. The State of Tamilnadu,
Rep. by its Secretary,
Department of School Education,
Fort. St. George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai-600 009.
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BATTU DEVANAND, J.

GVN

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