



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2025

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THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.(MD)No.12720 of 2019

and

W.M.P(MD)No.9476 of 2019

J.Jasmine

... Petitioner

Vs

1.The Chief Educational Officer,
Kanyakumari District at Nagercoil.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Board of School Education,
Kanyakumari Diocese, C.S.I.,
71, Dennis Street, Nagercoil,
Kanyakumari District - 629 001.
Rep. by the Bishop of Kanyakumari Diocese, C.S.I.

4.The Corporate Management Schools,
Kanyakumari Diocese, C.S.I.
71, Dennis Street, Nagercoil,
Kanyakumari District - 629 001.
Rep. by its Corporate Manager-Cum-Secretary
of Board of School Education.

5.Duthie Higher Secondary School for Girls,
Nagercoil - 1, Kanyakumari District - 629 001.
Rep. by its Correspondent.

6.Scott Christian Higher Secondary School for Boys,
Nagercoil-1, Rep. by its Correspondent.

...Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Mandamus** directing respondents 3 and 4 to forbear from appointing or posting anybody as Post graduate Assistant in Physics in any aided post in any of their schools, before appointing the petitioner as such and respondents 1 and 2 to forbear from approving any such appointment or posting.

For Petitioner : M/s.K.N.Thampi

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R1 & R2
Mr.S.C.Herold Singh
for R4 to R6
No appearance for R3

* * * * *

ORDER

This Writ Petition is filed by one of the aspirants who wants to be appointed as a Teacher in the Corporate Management School, Kanyakumari Diocese/the fourth respondent herein.

2.According to the petitioner, the Corporate Management is maintaining a list of persons who are seeking appointment in their educational institutions. The petitioner herein has also entered her name in the list and from the year 1994, onwards, her name in the list. In the year 2001, there was a resolution passed by the Corporate Management School to accommodate the petitioner



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herein on retiring post which falls vacant from 31.05.2001, onwards. She has further relied upon two other resolutions which were also in the similar line stating that she could be accommodated in one of the retiring posts in the incumbent therein. However, it was not implemented by the Management and the petitioner herein confined to file a original suit before the Principal District Munsif Court, Nagercoil, in O.S.No.561 of 2001, wherein she has also obtained an interim order in I.A.No.818 of 2001, injuncting the Management from filling up of any of the posts. Subsequently, the counter was also filed by the Management stating that the petitioner herein has tried to disturb the seniority list on 16.06.1994, and without waiting for her eligibility under the seniority list, she tried to enter her name into the Corporation Management by illegal method.

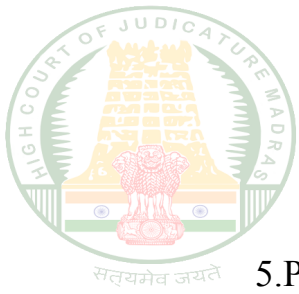
3.The learned Counsel for the petitioner has further stated that due to advise given by the well wishers, she has withdrawn the suit and awaited for the Management to accommodate her in any one of the posts. However, it was not forthcoming. Hence, she had come forward with the Writ petition with a prayer that the Management shall not appoint any person without appointing the petitioner herein in the post of Post Graduate Assistant in Physics.



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4.The learned Counsel for the petitioner has further submitted that the Corporate Management was well aware that the petitioner is having seniority to be appointed in any one of the posts as requested by her. To avoid embracement and to avoid placing of the records of their illegal activities, they have not come forward to file any counter in this Writ Petition. However, it is an admitted case from the previous pleadings, they had promised to the petitioner that they will accommodate her in any one of the vacant posts and await at the relevant point of time. The petitioner has also listed the persons who have been appointed by violating the norms, in her Affidavit, para No.6, same is extracted as follows:-

Sl. No.	Name	School	Appointment Date
1.	I.Evelin Felix Jeya	L.M.S.Boys Hr.Sec.School, Marthandam	08.08.2013
2.	V.Mahil Agatha	L.M.S.Hr.Sec.School, Mathicode	25.06.2014
3.	E.T.Sheeba Jasphin	L.M.S.Hr.Sec.School, Palliyadi	01.06.2016
4.	R.Angilin Prema	L.M.S.Hr.Sec.School, Palliyadi	01.06.2016
5.	G.Thanga Geetha	Scott Christian Hr.Sec.School, Nagercoil	04.10.2010
6.	A.Merlin Mary Aseer Gold	L.M.S.Hr.Sec.School, South Thamaraiikulam	01.06.2016
7.	D.Anitha	Scott Christian Hr.Sec.School	-



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5.Per contra, the learned Additional Government Pleader for the official respondents has submitted that the relevant provision relating to appointment in the Private Schools prescribed under Section 15(4) of the Tamil Nadu Private School (Regulation) Act, 2019. As this provision has been held that it is not applicable to the Minority institutions in the judgment reported in **2000 (4) LW 617**. He has further submitted that the prayer itself is misconceived and the said prayer could not be granted and the petitioner has not challenged the previous appointment made by the Corporate Management in this regard. Though the Management has entered appearance, they have not come forward to file their counter. Since the issues involved about the appointment, this Court has requested the learned Additional Government Pleader to submit his stand in this regard.

6.I have considered the submissions made on either side and perused the materials available on record.

7.Admittedly, the petitioner seeks appointment as a Secondary Grade Teacher in the Minority School. She is not having any legal right seeking appointment. The Rules prescribed in the appointment to be made in the private school, more particularly, is not applicable Section 15(4), to the minority

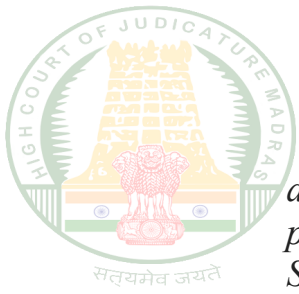


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institution. However, the points raised by the petitioner herein is that the issue relating to appointment in the post receives aid from the Government. The judgment of the Hon'ble Apex Court in ***Ivy C.da. Conceicao Vs. State of Goa and Ors. Reported in 2017 (2) CTC 667***, has recently considered whether the appointments made in the minority institution are required to follow the discretionary power in appointing the Teachers in their institutions. After considering the right of the minority institution under Article 30 of the Constitution of India, has made an observation after considering the Full Bench Judgment of the Kerala High Court rendered in ***Belsi, M. Vs. Corporate Management of Latin Catholic Schools, Diocese of Neyyattinkara reported in 2010 (2) KHC 220***, viz-a-viz, the fundamental rights of the eligible candidates under Articles 14, 16 and 21 of the Constitution of India. Paragraph Nos.14 and 15 of the said judgment are extracted as follows:-

“14. The above decisions clearly show that autonomy of a Minority Institution does not dispense with the requirement to act fairly and in a transparent manner and the High Court in exercise of its power of Judicial Review is entitled to examine fairness of selection process. Grievance of a citizen that he was treated unfairly cannot be ignored on the ground that a Minority Institution has autonomy or right of choice. Exercise of right of choice has to be fair, non-discriminatory and rational.

15. We, thus, hold that while under the Constitutional scheme, a "Minority Institution" is free to select and appoint a Principal, without being bound by the Principle of Seniority alone, whether the appointment has been made fairly and reasonably and whether there is violation of right of an individual eligible candidate by the Minority Institution by not



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adopting fair procedure, is liable to be tested in exercise of power of Judicial Review under Article 226 of the Constitution. Since this aspect of the matter has not been gone into by the High Court, we allow this Appeal and set aside the impugned Order.”

8.The observations made by the Hon'ble Apex Court shows that the minority institutions while making appointment are expected to be acted fairly, non-discriminatory and there must have rationality in exercising the right of choice in their appointment. The petitioner case is that she was promised to be appointed in the Corporate Management/School by way of resolution passed by the Corporate Management and subsequently, the same was not honoured. The petitioner is not entitled to seek enforcement by filing this Writ Petition, since already it is settled that, State is not entitled to interfere in the Management of the minority institution including in the matters of appointment of Teacher. Though the Minority Institution is having an independent power to appoint any person in the vacant posts, the fairness is to be followed in the appointment and filling up of the post, more particularly, when the post is receiving aid from the Government. It is also stated by the petitioner that some of the persons were appointed and those appointments were stated to be not done in a fair manner, but there is no challenge in those appointment. Admittedly, those appointments were made violating the resolution passed in favour of the petitioner herein in the year 2001.



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9.The learned Counsel for the petitioner submitted that the petitioner does not want to challenge their appointment. However, she seeks appointment in her favour in the future vacancy. As stated by the learned Additional Government Pleader that the State has no power to enter into the affairs of the minority institution including the power of appointing the teachers, this Court can only expect the Corporate Management to act fair, rational and non-discriminatory manner while making appointment.

10.With these observations, this Writ Petition stands disposed of. However, it is made clear that the petitioner case shall also be considered by the Management while making appointment in future. No costs. Consequently, connected Writ Miscellaneous Petition is also closed.

26.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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- 2.The District Educational Officer,
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K.RAJASEKAR, J.

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