



W.P.(MD)No.7581 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2025

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.7581 of 2019

C.Amali Jerosy

... Petitioner

Vs.

1.The Chief Educational Officer,
Seena Vana Government Hr.Sec.School,
V.E.Road, Tuticorin.

2.The District Educational Officer,
Tiruchendur, Tuticorin District.

3.The Correspondent,
Little Flower High School,
Periyathalai-628 703,
Tuticorin District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, challenging the order of the first respondent in Na.Ka.No.6045/A3/2018 dated .01.2019 insofar as upgrading the post B.T. Assistant (Maths) from .01.2019 instead of 09.06.2017 ie., date of appointment.

For Petitioner : Mr.V.Panneer Selvam,
for M/s.S.Vinod Sadhya Lazar

For R1 & R2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.



W.P.(MD)No.7581 of 2019

WEB COPY

ORDER

Under assail is the order dated .01.2019 passed by the Chief Educational Officer, Tuticorin.

2.The case of the petitioner is that she was appointed in the post of B.T. Assistant (Maths) in the third respondent School, which is minority aided institution and one Rajini Vijayarani, who was working as Secondary Grade Assistant in the third respondent School was promoted as B.T. Assistant (Social Science). The Government by G.O.Ms.No.144, dated 04.07.2008 has decided that all the Secondary Grade Assistant falling vacant for the classes from VI to VIII are upgraded as Graduate Post and hence, the said vacancies are to be filled only through Graduate Teacher with B.Ed., qualification. She is a B.Sc., B.Ed., Degree Holder in Maths and she was appointed in the above said vacancy which arose in her School by an order of appointment dated 06.06.2017 with effect from 09.06.2017. As per the Government order, all the vacancies on retirement become upgraded as B.T.Assistant Post and there is no prior permission required from the authorities. The third respondent School management, by a proceedings dated 18.07.2017 has forwarded a request



W.P.(MD)No.7581 of 2019

through the second respondent to approve her appointment. The first respondent issued the order impugned wherein it has been stated that upgraded post of Secondary Grade Assistant which fell vacant due to superannuation from 22.12.2017 instead 09.06.2017. Hence, the writ petition.

3.The learned counsel appearing for the petitioner would submit that The Government, by G.O.Ms.No.144, dated 04.07.2008, has decided that all the Secondary Grade Assistant falling vacant for the classes from VI to VIII are upgraded as Graduate Post and hence, the said vacancies are to be filled only through Graduate Teacher with B.Ed., qualification. He would submit that the petitioner is a B.Sc., B.Ed., Degree Holder in Maths and she was appointed in the said vacancy arose in her School with effect from 09.06.2017. He would submit that as per Government Order, all the vacancies on retirement become upgraded as B.T.Assistant Post and there is no prior permission required from the authorities. To strengthen his contention, he has relied upon the decision of the Division Bench of this Court in W.A.(MD)No.1365 of 2024 dated 14.08.2024 to show that the question of approval for upgradation is not necessary.



W.P.(MD)No.7581 of 2019

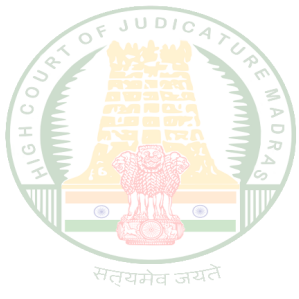
WEB COPY

4.Per contra, the learned Additional Government Pleader appearing for the respondents 1 & 2 would submit that prior approval is necessary.

5.This Court has considered the submissions made on either side and perused the available records.

6.It is seen from the records that the petitioner was appointed in the vacancy arose in the third respondent school, by an appointment order dated 06.06.2017 with effect from 09.06.2017. The Hon'ble Division Bench of this Court, in W.A.(MD)No.1365 of 2024, vide order dated 14.08.2024 has held as follows:-

3.The question of prior approval for upgradation is no longer res integra. This Court in Government of Tamil Nadu, Rep. by its Secretary to Government, Department of School Education, Madras and others vs. J.Remila and others reported in 2018 (1) Writ Law Reporter 410, has held that a minority institution does not require prior approval for upgradation of a post. The said view was affirmed by the another Division Bench of this Court in a recent judgment dated 29.02.2024 rendered in W.A. (MD)Nos.1093 of 2023 and 630 of 2024 [The Government



WEB COPY



W.P.(MD)No.7581 of 2019

of Tamil Nadu, Rep. by its Secretary, Education Department, Chennai and others vs. Immaculate Arputha Mary Usha and others].

7.By applying the ratio laid down in the above decision, this Court is inclined to set aside the order impugned. Accordingly, the order impugned dated 24.09.2018 passed by the first respondent is hereby set aside. The third respondent is directed to submit a proposal before the first respondent, within a period of two weeks from the date of receipt of a copy of this order. After receiving proposal from the third respondent, the first respondent is directed to approve the petitioner's appointment with effect from 09.06.2017, instead of 22.12.2017, within a period of four weeks from the date of receipt of proposal from the third respondent.

8.In the result, this writ petition is allowed. No costs.

NCC : Yes / No
Index : Yes / No
gns

08.04.2025



W.P.(MD)No.7581 of 2019

WEB COPY

- To
- 1.The Chief Educational Officer,
Seena Vana Government Hr.Sec.School,
V.E.Road, Tuticorin.
 - 2.The District Educational Officer,
Tiruchendur, Tuticorin District.
 - 3.The Correspondent,
Little Flower High School,
Periyathalai-628 703,
Tuticorin District.



WEB COPY



W.P.(MD)No.7581 of 2019

M.JOTHIRAMAN, J.

gns

W.P.(MD)No.7581 of 2019

08.04.2025