



W.P.(MD)No.20933 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 29.10.2024

Delivered On : 27.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.20933 of 2021

and

W.M.P.(MD)Nos.17550 and 17552 of 2021

K.Sasi Pramila

... Petitioner

Vs.

1.The Administrator,
India Evangelical Lutheran Church (IELO),
No.47, Eldams Road,
Teynampet, Chennai – 600 018.

2.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

3.The District Educational Officer,
Valliyoar,
Tirunelveli District,
Tirunelveli.

4.N.Anitha Jasmine

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in connection with the impugned order of rejection passed by him in his proceedings Nil, dated 17.06.2020 (in so far as the petitioner is concerned) as well as grant of approval of the 4th



W.P.(MD)No.20933 of 2021

respondent's appointment and quash the both and thereby direct the 1st respondent to approve petitioner's appointment in the post of PG Assistant (Commerce) with effect from 19.04.2018 and consequentially direct the official respondents to pay all service and monitory benefits to her.

For Petitioner	: Mr.G.Thalaimutharasu
For 1 st Respondent	: Mr.Mohammed Imran for M/s.Ajmal Associates
For Respondents 2 & 3	: Mr.S.Kameshwaran Government Advocate
For 4 th Respondent	: Mr.Issac Mohanlal, Senior Counsel For M/s.Issac Chamber

ORDER

Challenging the order of rejection passed by the first respondent in proceedings dated 17.06.2020, rejecting the petitioner's request to approve her appointment as PG assistant and the grant of approval of the fourth respondent's appointment as PG assistant commerce at Concordia Higher Secondary School, Valliyoor, Tirunelveli district and further direct the first respondent to approve the appointment of the petitioner as PG Assistant Commerce with effect from 19.04.2018, this Writ Petition is filed.

2.Heard the learned counsels on either side and carefully perused the materials available on record.

3.The Concordia Group of Schools functions under the religious minority institution, namely, India Evangelical Lutheran Church



W.P.(MD)No.20933 of 2021

established under the Societies Act. Concordia Schools fall under the Corporate Management of the India Evangelical Lutheran Church functioning under Nagercoil Synod. More particularly, the Concordia High School at Nagercoil and Concordia Higher Secondary School at Valliyoor, comes under the Nagercoil Synod of India Evangelical Lutheran Church and both are minority educational institutions receiving grant in aid from the Government. The petitioner is a person with 50 percent locomotor disability and she was appointed by the Parent Teachers Association as BT Assistant in the year 2012 at Concordia High School at Nagercoil. During 2013, a vacancy in the post of PG Assistant had arisen in the said School due to the superannuation of the erstwhile PG Assistant Mr.C.Bose on 31.05.2013.

4.The Secretary of the India Evangelical Lutheran Church (hereinafter to be called as IELC), issued an interview call letter for the said post in which the petitioner participated in the interview on 27.05.2013. Though the interview was completed on 27.05.2013, due to the prevailing internal administrative tussle in the appointment of Correspondent in the IELC, Nagercoil Synod, Correspondent was appointed only in the month of April 2018 and on the basis of the decision taken in the executive committee of IELC, Nagercoil Synod, held on 16.04.2018, the petitioner was issued with an appointment order on 18.04.2018 in the post of PG Assistant Commerce and following which, a



W.P.(MD)No.20933 of 2021

proposal seeking approval of her appointment was sent by the Correspondent on 23.04.2018, to the third respondent. Since the approval of the petitioner's appointment was delayed due to the ongoing internal administrative issues, a retired judge Hon'ble Mr.Justice D.Hari Parandaman was appointed as the administrator of IELC. While being so, the petitioner filed a Writ Petition in W.P.(MD)No.10529 of 2019, seeking to direct the respondent authorities to approve her appointment. This Court by order dated 27.04.2019, directed the respondent authorities to consider the petitioner's representation and pass appropriate orders.

5.Pursuant to the said order, the first respondent considered the representations made by all similarly placed teachers except the petitioner's case for the sole reason that the petitioner was appointed by one Correspondent, namely, P.Manuel Yesuraj, whose appointment was already quashed by this Court, which was further upheld by the Hon'ble Apex Court. In the interregnum, the fourth respondent was also appointed in the post of PG Assistant Commerce, whose appointment came to be approved by the first respondent without looking into the fact that she had obtained M.Com and B.A. degree simultaneously in a biased manner, rejecting the petitioner's application, seeking approval of her appointment. Challenging the same, this Writ Petition came to be filed.

6.The crux of the case revolves around the appointment of two



W.P.(MD)No.20933 of 2021

persons in the post of PG Assistant Commerce in the Concordia Higher Secondary School, Valliyoor, that is, the petitioner who was appointed by one P.Manuel Yesuraj, while he was functioning as the Correspondent of the said school on 13.04.2018, and the fourth respondent, that is, Mrs.S.Anita Jasmin who has already been serving as PG Assistant Commerce in the same School from the year 2015 onwards, who was appointed by one Thiru.B.A.Raj, Secretary and Manager of the Schools in Nagercoil Synod. The fourth respondent was appointed based on the executive committee meeting held on 18.07.2015. Both the schools, namely, Concordia Higher Secondary School, at Valliyoor and Concordia High Secondary School, at Vadakamkulam, were functioning without any approved correspondent since 13.07.2012 and hence, those Schools were brought under direct payment system by the proceedings of the concerned District Educational Officer dated 13.07.2012. Hence, it is precisely clear that, neither the petitioner nor the fourth respondent was appointed by an approved Correspondent. Under such background, both the petitioner as well as the fourth respondent filed several Writ Petitions before this Court, seeking approval of their respective appointments as PG Assistant Commerce. The fourth respondent filed a Writ Petition in W.P.(MD)No.17805 of 2015 before this Court, seeking to direct the respondents to approve her appointment on the basis of her representation. While she was working in the said school as PG Assistant Commerce, another unapproved correspondent, namely, Thiru.P.Manuel



W.P.(MD)No.20933 of 2021

Yesuraj appointed the petitioner in the post of PG Assistant in the same vacancy, which had arisen on 31.05.2013 on the superannuation of the erstwhile PG Assistant Mr.C.Bose on 18.04.2018. In this regard, the petitioner also filed a Writ Petition before this Court in W.P.(MD)No. 10529 of 2019, seeking to direct the respondents to approve her appointment as PG Assistant Commerce. This Court by order dated 27.04.2019, directed the respondents therein to consider the petitioner's representation and pass appropriate orders within a period of 8 weeks from the date of receipt of copy of the aforesaid order.

7.Pursuant to the same, the Chief Educational Officer, Tirunelveli, rejected the petitioner's representation for the reason that she was appointed by an unapproved Correspondent whose appointment itself has been quashed by this Court and later confirmed by the Hon'ble Apex Court. In the interregnum, the fourth respondent filed yet another Petition in W.P.(MD)No.8916 of 2018 before this Court in which this Court by interim order dated 27.04.2018, protected her case by directing the respondents not to relieve her from the post of PG Assistant Commerce during the pendency of the said Writ Petition. The fourth respondent filed another Writ Petition in W.P.(MD)No.8478 of 2019 and this Court by order dated 27.04.2019, directed the respondents to consider the fourth respondent's representation and pass appropriate orders within a period of 8 weeks from the date of receipt of copy of that



W.P.(MD)No.20933 of 2021

order. Pursuant to the same, the Chief Educational Officer, Tirunelveli, rejected the fourth respondent's representation on the ground that she was also appointed by an unapproved Correspondent.

8.In the interregnum, in view of the maladministration in the Management of IELC Schools, this Court appointed retired Judge Hon'ble Mr.Justice D.Hari Parandhaman as the Administrator of the management of IELC schools to set right the internal administrative disputes and to form a new management. Following which, the petitioner has filed this Writ Petition, requesting to approve her appointment. Due to the ongoing tussle in the internal administration of the IELC group of Schools, Hon'ble Mr.Justice D.Hari Parandhaman (retired judge) was appointed as Administrator by this Court in TR.C.S.No.741/2017, by order dated 31.07.2018. The first respondent assumed charge as Administrator on 26.09.2018, on the basis of the order received by him from this Court on 07.09.2018. Before the first respondent assumed office of the Administrator, the Correspondents of two rival groups have made several appointments and the approval of all those appointments of teaching as well as non-teaching staffs were kept in abeyance by the respondent educational authorities due to the various anomalies in the administration of the said school and that the appointments were made by those Correspondents whose appointment itself was not approved by the competent educational authorities.



W.P.(MD)No.20933 of 2021

WEB COPY

9. Pursuant to a series of orders passed by this Court in various Writ Petitions filed by those teaching and non-teaching staffs whose appointments were not approved, the first respondent issued notice to all those appointees, more particularly, the teaching as well as non-teaching staffs irrespective of the fact whether they approached the Court or not to appear before him. On 22.06.2019, 06.07.2019, 03.08.2019 and 10.08.2019, the teachers as well as non-teaching staffs who were appointed by the rival groups appeared before the administrator on his notice and enquiry was duly conducted in this regard.

10. Before considering the claim of the petitioner, fourth respondent and the other teachers/non-teaching staffs of the Concordia Higher Secondary School at Valliyoor and Vadakankulam for approval of their appointments, it is necessary to take into account the litigations relating to the appointment of correspondents of these schools. One Rev.K.S.Davidson was the correspondent of these schools from 19.09.2007 to 22.03.2011 and thereafter it was extended for a further period of one year upto 22.03.2012. When it was sought to be extended until the election to the Nagercoil Synod took place, the same was challenged by filing a writ petition before the Madurai Bench of the Hon'ble Madras High Court. In these circumstances, the Education Department refused to approve the extension of the tenure of



W.P.(MD)No.20933 of 2021

appointment of Rev.K.S. Davidson and instead the District Educational Officer, Cheranmahadevi issued a proceeding dated 13.07.2012 bringing the said schools under direct payment system. That is, no one was a correspondent at the least from 13.07.2012, the date of the proceeding of the concerned District Educational Officer as stated above. While so, as stated above there was a split in the IELC in 2013 and for a long time, no correspondent was approved by the Education Department. In the said circumstances, the Schools continued under the direct payment system. In 2017, one group sought approval for the appointment of Mr.P.Manuel Yesuraj as the correspondent of these schools, while the other group sought Rev.Y. Suvisesha Muthu as the correspondent of the said schools. The District Educational Officer, Cheranmahadevi issued a proceeding in Na.Ka.No. 1827/B1/2017 dated 13.04.2018 approving the appointment of Mr.P.Manuel Yesuraj as the correspondent of these two schools. Reading of the said order dated 13.04.2018 would disclose the aforesaid facts. Aggrieved over the order dated 13.04.2018 of the District Educational Officer, the other group filed W.P (MD) No. 9935 of 2018 before the Madurai Bench of the Madras High Court questioning the aforesaid order. The Hon'ble Court by an order dated 27.04.2018 in W.P. (MD) No. 9935 of 2018 set aside the said order dated 13.04.2018 of the District Educational Officer, Cheranmahadevi and remanded the matter back to the District Educational Officer to decide the matter afresh after hearing both the groups. This order was challenged in W.A.(MD)No.790 of 2018



W.P.(MD)No.20933 of 2021

before the Madurai Bench of the Madras High Court. The Court by its judgment dated 05.06.2018 in W.A.(MD)No.790 of 2018 allowed the Writ Appeal and restored the order dated 13.04.2018 of the District Educational Officer, Cheranmahadevi. The issue was taken to the Apex Court. The Hon'ble Supreme Court by its order dated 06.07.2018 made in Civil Appeal No.6101 of 2018 set aside the order of the Hon'ble Division Bench and restored the order of the learned single Judge. In the meantime, a new District Educational Officer office was established at Valliyoor and the said office has Jurisdiction over the Concordia Higher Secondary Schools at Valliyoor and Vadakankulam. By the time the issue was to be decided by the concerned District Educational Officer as per the order of the Supreme Court referred to above. The first respondent was appointed as the Administrator of the IELC. On coming to know about the said development, the District Educational Officer at Valliyoor passed an order signed on 04.10.2018 in Na.Ka.No.1827/A2/2018 that the issue relating to the appointment of correspondent would be decided by the Administrator. The first respondent decided in the interest of the schools that, the schools shall continue to remain under direct payment system. Accordingly these schools are continuing under direct payment system. While so, on the transfer of the District Educational Officer, who passed the earlier order dated 04.10.2018, the new incumbent who was posted at Valliyoor passed an order dated 18.03.2019, approving one Mr.V.A.Raj as the correspondent of the schools. The first respondent sent



W.P.(MD)No.20933 of 2021

repeated representations to the District Educational Officer, Valliyoor to cancel the order dated 18.03.2019 approving Mr.V.A.Raj as correspondent. But, it was of no avail. Hence, the first respondent filed W.P (MD) No. 10071 of 2019 questioning the order of the District Educational Officer, Valliyoor, before the Madurai Bench of the Madras High Court and the Hon'ble Court by its order dated 25.04.2019 granted stay of the order of the District Educational Officer, Valliyoor and the stay continues till date. Besides filing W.P. (MD) No.10071 of 2019 as stated above, the first respondent also initiated contempt proceeding before the Madras High Court against the District Educational Officer, Valliyoor for deliberately disobeying the order of the Hon'ble High Court dated 31.07.2018 in Tr.C.S.No.741/2017 appointing the first respondent as the Administrator and vesting all the powers with the first respondent relating to the administration of the IELC. The contempt proceeding is still pending. Besides the order of District Educational Officer, Cheranmahadevi, dated 13.07.2012 referred to in paragraph 29, the Director of School Education issued the Proceeding dated 03.12.2012 bringing the Concordia Higher Secondary Schools at Valliyoor and Vadakankulam under Direct Payment System. That is, there was no approved correspondent by the Education Department after 2012 for the Concordia Higher Secondary Schools at Valliyoor and Vadakankulam.

11.It is pertinent to mention at this point that, all the appointments



W.P.(MD)No.20933 of 2021

of the teaching as well as non-teaching staffs who appeared for enquiry before the first respondent were appointed without any proper selection process. It is an undisputed fact that the teachers/non-teaching staffs appointed so rendered their services in the respective schools without any payment towards salary for many years and ultimately the students were the beneficiaries. Hence, the first respondent decided to approve the appointment, provided the appointees actually served after appointment in the existing vacancy and that the appointees does possess the requisite qualification for the post as prescribed under the Tamil Nadu Private Schools (Regulation) Act, 1973 and Rules framed there under. The yardstick that was laid down by the first respondent for approval of appointment of teachers/nonteaching staff is as follows:-

- (i) There should be a vacancy.
- (ii) The person appointed against the vacancy should possess the requisite qualification.
- (iii) The person should have been factually serving in the School after the appointment.
- (iv) When there is a contest, the earlier appointee will be preferred.

12. On the basis of the aforesaid yardsticks, the first respondent in the capacity of Administrator proceeded to decide the question as to whether the petitioner Mrs.K.Sasi Pramila or the fourth respondent Mrs.S.Anita Jasmine would satisfy the aforesaid criteria as laid down by



W.P.(MD)No.20933 of 2021

him for approval of appointment. Recording that there was no dispute that a vacancy had arisen due to the retirement of Mr.C.Bose as PG Assistant Commerce, the first respondent also recorded the fact that both the petitioner as well as the fourth respondent possessed the requisite qualification for the post of PG Assistant Commerce. The fourth respondent was appointed by one Correspondent, namely, Rev.V.Suvisesha Muthu on 18.07.2015 and the said Correspondent Rev.V.Suvisesha Muthu had sent a proposal dated 03.08.2015 to the District Educational Officer, Cheranmahadevi, to approve her appointment as PG Assistant Commerce. Likewise, the petitioner was appointed by order dated 18.04.2018, by another Correspondent, namely, Thiru.P.Manuel Yesuraj and a proposal was sent by him to the District Educational Officer, Cheranmahadevi, for approving the appointment of the petitioner as well. No doubt, both the Correspondents were not legally appointed Correspondents and their appointment, more particularly, the appointment of Mr.P.Manuel Yesuraj was quashed by this Court, which was later confirmed by the Hon'ble Apex Court. After appointing the petitioner to the post of PG Assistant, the said correspondent Thiru.P.Manuel Yesuraj prevented the fourth respondent from discharging her duties as PG Assistant Commerce, which resulted in the fourth respondent filing a Writ Petition before this Court in which this Court passed an order of interim injunction on 23.04.2018 from restraining the said Manuel Yesuraj from interfering with the fourth



W.P.(MD)No.20933 of 2021

respondent in discharging her duties as PG Assistant Commerce. This was exercised by the said P.Manuel Yesuraj for the reason that the order passed by the learned Single Judge of this Court in the Writ Petition filed by the fourth respondent came to be reversed in W.A.(MD)No.790 of 2018 setting aside the order of the learned Single Judge by approving the appointment of Mr.P.Manuel Yesuraj as Correspondent. Later the same was further taken before the Hon'ble Apex Court, in which the Hon'ble Apex Court had set aside the order passed by the Hon'ble Division Bench of this Court in W.A.(MD)No.790 of 2018 by its order dated 06.07.2018. Even thereafter, the records disclosed that the fourth respondent was constrained to approach this Court by filing Contempt Petition No.973 of 2018, in which an injunction order dated 23.04.2018, was disobeyed by Mr.P.Manuel Yesuraj and this Court in the Contempt Petition issued a non-bailable warrant by order dated 30.08.2018, to Mr.P.Manuel Yesuraj who failed to appear pursuant to the statutory notice in the aforesaid Contempt Petition which was served on him directing him to appear. Though the petitioner had relied upon the attendance register for the period from May 2018 to July 2019, the first respondent concluded that the same is of no avail in view of the injunction order in favour of the fourth respondent passed by this Court on 23.04.2018.

13.Recording the fact that though the petitioner claimed that the copy of attendance register produced by her related to May 2018 to



W.P.(MD)No.20933 of 2021

2019, the same could not be confirmed by the first respondent since the details of month and year was not clear in the said copy. Since both the petitioner as well as the fourth respondent fulfilled the first three criterias, the first respondent concluded that the claim for appointment made by the fourth respondent is liable to be upheld than that of the appointment of the petitioner for the reason that the fourth respondent was appointed three years prior to the appointment of the petitioner. Finally, the first respondent approved the appointment of the fourth respondent as PG Assistant Commerce in Concordia Higher Secondary School, Valliyoor, from 20.07.2015, that is, from the date on which she joined duty. Thereafter, the first respondent had forwarded a proposal to the District Educational Officer, Valliyoor, seeking to approve the appointment of the fourth respondent as PG Assistant Commerce in the Concordia Higher Secondary School at Valliyoor, more particularly for the purpose of grant from 20.07.2015.

14.Following which, the third respondent District Educational Officer, Valliyoor, has filed a counter and para 16 of the said counter would reveal that the fourth respondent is continuously serving her duty as PG Assistant Commerce since 01.08.2015. However, the petitioner is not attending the school as on 19.04.2022 on the date of filing the counter. It has become crystal clear that while the management was in dispute at the relevant point of time, the Schools of IELC were brought



W.P.(MD)No.20933 of 2021

under direct payment and the rival parties have appointed teaching as well as non-teaching staffs and in the instant case, the rival parties have appointed the petitioner as well as the fourth respondent in a vacancy, which had arisen due to the retirement of Mr.C.Bose, who retired as PG Assistant Commerce.

15.Admittedly, in this case the Administrator considering the entire materials and on the basis of the statement of the rival parties, approved the appointment of the fourth respondent as PG Assistant Commerce. Therefore, in these circumstances, considering the outcome of the multiple litigations before this Court in this regard, this Court do not find any reason to interfere with the finding and the conclusion rendered by the first respondent in the matter of approval of appointment of the fourth respondent as PG Assistant Commerce in the vacancy, which had arisen due to the retirement of one Mr.C.Bose as early as on 31.05.2013.

16.Accordingly, the Writ Petition fails and the same is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



W.P.(MD)No.20933 of 2021

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To

- 1.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
- 2.The District Educational Officer,
Valliyoar,
Tirunelveli District,
Tirunelveli.



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W.P.(MD)No.20933 of 2021

L.VICTORIA GOWRI, J.

Mrn

W.P.(MD)No.20933 of 2021

27.01.2025