



WP(MD). No.22311 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04/11/2025

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

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The Correspondent,
St.Mary's Higher Secondary School,
Melpalai-629 152,
Kanyakumari District.

... Petitioner

Vs

1. The Secretary to Government,
School Education Department,
St.George Fort,
Chennai..
2. The Commissioner of School Education,
DPI Campus, College Road,
Chennai - 600 006..
3. The Chief Educational Officer,
Kanyakumari District,
At Nagercoil..
4. The District Educational Officer,
Marthandam,
Kanyakumari District..

... Respondents



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PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records on the files of the 3rd respondent pertaining to its proceeding in Na.Ka.No. 6839/A4/2024 dated 18.09.2024 and to quash the same and consequently directing the respondents to approve the appointment of R.Jeen Sajera as P.G.Assistant in Zoology with effect from 19.03.2020 and to pay salary along with arrear of Salary and all attendant service and monitory benefits consequent to the same within a stipulated time that may be specified by this Court.

For Petitioner : Mr.SC.Herold Singh,
For Respondent : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

This writ petition is filed challenging the proceedings issued by the 3rd respondent in Na.Ka.No. 6839/A4/2024 dated 18.09.2024 and to quash the same and consequently directing the respondents to approve the appointment of R.Jeen Sajera as P.G.Assistant in Zoology with effect from 19.03.2020 and to pay salary along with arrear of Salary and all attendant service and monitory benefits consequent to the same within a stipulated time.



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2. In the instant case, the petitioner appointed one Mrs.R.Jeen Sajera to a sanctioned vacancy as PG Assistant (Zoology) on 19.03.2020, which arose due to the promotion of the then incumbent on 19.03.2020. The petitioner management had sent a proposal to approve the appointment of Mrs.R.Jeen Sajera and the same had been returned by citing the order of this Court in W.A(MD).No.76 of 2019. This Court in a similar circumstances, passed an order in W.P.(MD).No.24292 of 2025 dated 10.10.2025 and held that such ground cannot be available to the respondents as neither the BT Assistants who were entitled for promotion had challenged the appointment of the PG Assistants by Direct recruitment nor they have made any complaints in not filling up the vacancy by way of promotion. For better appreciation, the relevant paragraph of the said order is extracted hereunder :

"5. It is the case, where the petitioner has made an appointment to the post of PG Assistant. It is only the case of the respondents that there are four BT Assistant teachers available eligible for promotion and without promoting them, the petitioner school could not have appointed a PG Assistant teacher. The respondents claim that there has been no relinquishment of promotion by the BT Assistant teachers. But it is not their case,



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they have received complaints that the petitioner had filled up the vacancies without offering them an opportunity of promotion. When that be so, the respondents cannot be heard to say that the petitioner has to produce letters of relinquishment from the BT Assistants. The said BT Assistants have not challenged the appointment of PG Assistant. Therefore, they cannot be said to be aggrieved and therefore, the reason given by the respondents in rejecting the claim on that ground is liable to be interfered with. It is further to be noted that this Court following the earlier judgements, had categorically held that Rule 28 of the TamilNadu Private Schools (Regulation) Rules, 2023 which is equivalent to old rule 15(4) had been categorically held not to apply for minority institutions. No contrary orders have been produced by the respondents to say that the judgements relied upon by the petitioner cannot be made applicable to the case."

3. In view of the above, the matter is remitted back to the Respondent Nos.3 & 4, and they are hereby directed to consider the proposal of the petitioner school and pass appropriate orders on merits and in accordance with law if the petitioner is otherwise qualified.



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4. With the above directions, this writ petition is disposed of. No

costs.

04.11.2025

Index : Yes/No
Speaking/Non-Speaking order
Neutral Citation : Yes/No
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TO

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DPI Campus, College Road,
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**ORDER
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