

W.A.(MD)No.2446 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.02.2025

CORAM:

THE HONOURABLE **MRS JUSTICE J. NISHA BANU**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.2446 of 2024
and
C.M.P.(MD)No.16994 of 2024

1.The Joint Director (Secondary Education),
School Education Department,
Chennai.

2.The Chief Educational Officer,
District Collectorate Campus,
Virudhunagar District.

3.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.

... Appellants

Vs.

1.R.Jayaprabha

2.The Secretary,
Sri Rao Bahadur A.K.D.Dharma Raja Girls
Higher Secondary School,
Rajapalayam – 626 117.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.30434 of 2023, dated 20.12.2023.



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For Appellants :Mr.J.Ashok
Additional Government Pleader

For R1 :M/s.H.Jasima Yasmin
for M/s.Ajmal Associates

For R2 : No Appearance

JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

This Writ Appeal is filed by the respondents in the writ petition challenging the order dated 20.12.2023 passed in Writ Petition W.P.(MD)No. 30434 of 2023.

2.The Writ Petition was filed for Writ of Certiorarified Mandamus, to quash the impugned order, dated 15.09.2022 and consequently to direct the 2nd respondent to approve the appointment of the petitioner in the 4th Respondent school with the effect from 15.04.2015 with all consequent attendant benefits with arrears of salary.

3. The briefs facts as stated in the writ petition are that the 4th respondent school is an aided non-minority school governed under the Tamil



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Nadu Recognized Private Schools (Regulation) Act and the orders issued by the

government from time to time. The school in order to fill up the vacancy called for applications vide proceedings dated 12.01.2015 through open market through paper publications issued on 22.01.2015 and also called for a list from the Employment Exchange. As per the said notification, two posts were notified for the vacancy of BT Assistant (Tamil) and the communal roster for said posts are OC and SC (Arunthathiyar - under preferential basis). The petitioner belongs to SC community and qualified to the said post and had participated in the selection process. The School Committee selected the petitioner and appointed as BT Assistant (Tamil) vide the order dated 13.04.2015 and the petitioner had joined the duty on 15.04.2015. Initially the proposal was returned, citing the order in W.P.(MD)No.2677 of 2014 dated 29.09.2014 setting aside G.O.Ms.No.25 dated 06.02.2014 granting relaxation of TET marks. However, the Hon'ble Supreme Court had uphold the said G.O. Pursuant to the said order, directions were issued by the 1st respondent vide proceedings dated 01.03.2017 to approve the appointments as per G.O.Ms.No.25. Hence again the proposal was resubmitted on 14.03.2017 for approval of appointment, the 3rd respondent returned the said proposal on the ground the communal roster was not followed. The contention of the writ petitioner is that since there were no suitable meritorious person available from SC(A) category, the writ petitioner was appointed under the category of SC.



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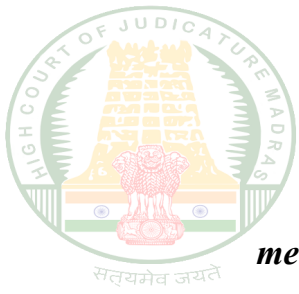
The said issue was already decided by the Hon'ble Court in several writ petitions and writ appeals. The government has also passed G.O.Ms.No.65, Personnel and Administrative Reforms Department, dated 27.05.2005, clarifying if SC(A) is not available, the said post can fill up SC. There is no impediment to approving the appointment of the petitioner. Hence, the writ petition was filed.

4. The appellants submitted that when the selection process was started, when the school is aware that no SC(A) candidate is not available, then the school ought to have submitted non-availability certificate along with a letter seeking permission from the appellants to call for the candidates from SC category alone. Thereafter ought to have conducted the selection process again.

5. After hearing the rival submissions, this Court has given its anxious considerations. Under G.O.Ms.No.61, Adi Dravidar and Tribal Welfare (TD2) Department, dated 29.05.2009, it has been stated under:

“The seats to Arunthathiyars shall be offered in the rotation 2,32 and 66”, the following expression shall be substituted namely:-

“The seats to be allotted to Arunthathiyars on preferential basis shall be offered in the horizontal rotation such as 2,32 and 66. The preferential seats if filled up, it does not mean that the other qualified Arunthathiyars shall not compete with the rest of the Scheduled Castes



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members on inter-se available to fill up the preferential seats, it does not mean that the vacancies so arising shall not be filled up by the Scheduled Castes members on merit basis”.

When the said G.O., permits the school to appoint SC candidate, if SA(A) candidate is not available, then the school is having right to appoint any SC candidate. And the same is in accordance to the aforesaid G.O.

6. In the percent case, the school has called for applications from SC and SC(A) category. In the paper publication it is mentioned as per rotation the post is allotted to SC (Arunthathiyar - under preferential basis) and once it is mentioned so then the same ought to be read along with G.O.Ms.No.61, which had statutory force.

7. In the selection process three SC(A) candidates have applied, however only one SC(A) candidate participated in the selection process namely Nagajothi. And the other two SC(A) candidates were marked as “absent”. In the selection process other SC candidates also participated. The cutoff mark prescribed for SC/ST candidates was 82.5. The said SC(A) candidate Nagajothi acquired only 60 marks, whereas the writ petitioner Jeyabrabha (SC) candidate had scored 83 marks and has emerged as meritorious candidate. Therefore, the



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writ petitioner would be the successful candidate when she has scored 83 marks.

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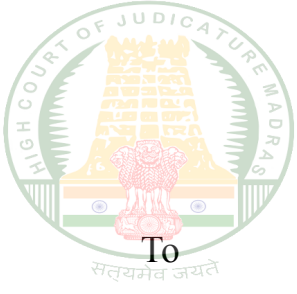
8. The Writ Court have considered all the grounds raised by the appellants. Therefore, this Court is of the considered opinion that there is no infirmity in the order passed by the Writ Court.

9. Hence the writ appeal deserves to be dismissed and accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[J.N.B., J.] [S.S.Y., J.]
20.02.2025

Index : Yes / No

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