



W.A(MD)No.297 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2025

CORAM:

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

**W.A(MD)No.297 of 2023
and
C.M.P(MD)No.3385 of 2023**

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George,
Chennai – 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai – 600 006.
- 3.The Joint Director of Elementary Education,
College Road, Chennai – 600 006.
- 4.The District Elementary Educational Officer,
Tuticorin at Pudhukottai,
Tuticorin District.
- 5.The Assistant Elementary Educational Officer,
Tuticorin (Urban),
Tuticorin District.

... Appellants/Respondents

VS.



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The Manager & Correspondent,
Carpenter Street Middle School,
Gopalasamy Street,
Tuticorin – 628 001.

... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 29.08.2022 made in W.P(MD)No.5351 of 2018 on the file of this Court.

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondent : Mr.Ragadeesh Kumar
for M/s.Isaac Chambers

JUDGMENT

(Judgment of the Court was delivered by J. NISHA BANU, J.)

The present Writ Appeal is directed against the order passed by the Writ Court dated 29.08.2022 made in W.P(MD)No.5351 of 2018.

2.The respondent/writ petitioner has filed the Writ Petition challenging the order passed by the fourth respondent, dated 25.07.2017, wherein the fourth respondent denies the approval for the appointment of D.Arul Prakash as B.T Assistant (History) for the period from 18.08.2010 to 19.06.2013 and



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further direct the fourth respondent to give approval to the said period with all attendant benefits including service, salary and allowance.

3.The Writ Court, after considering all the materials available on record, allowed the Writ Petition and directed the fourth appellant to pass appropriate orders, approving the respondent/writ petitioner's appointment to the post of B.T Assistant (History), for the period between 18.08.2010 and 19.06.2013, together with all service, monetary and other attendant benefits. Challenging the same, the respondents as appellants have preferred the present Writ Appeal.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.The respondent/writ petitioner is a Private Minority Aided Educational Institution, which claims to have been established as a Primary School in the year 1865 and later, upgraded as a Middle School in the year 1931. In connection with certain issues with regard to approval of the Management, the



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school was brought under direct payment of the educational authorities. On 18.08.2010, the School Management had appointed one D.Arul Prakash as B.T. Assistant (History) in a sanctioned vacancy, with effect from 18.08.2010 and accordingly, had submitted a proposal to the second appellant seeking for approval of his appointment.

6.Pending consideration of the proposal, the Government, in G.O.Ms.No.96, School Education (NI.VA.2) Department, dated 20.06.2013, had granted minority status to the school management, for a limited period of 5 years. The challenge to limiting the minority status, was allowed by this Court through its order dated 04.02.2015, in W.P.(MD)No.9453 of 2014, whereby the Government Order, restricting the minority status to five years, was set aside. The department's intra-court appeal against the order of the writ Court, came to be dismissed by the Hon'ble Division Bench in W.A.No.38 of 2018, on 05.01.2018.

7.In this background, the appellants have rejected the writ petitioner's proposal for approval of the appointment of D.Arul Prakash, predominantly on the ground that the minority status of the school was declared



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only on 20.06.2013 through G.O.Ms.No.96, School Education (NI.VA.2)

Department, dated 20.06.2013 and therefore, approved the appointment of D.Arul Prakash, with effect from 20.06.2013. The writ petitioner claims for approval of the appointment of D.Arul Prakash from the date of his appointment (i.e.,) from 18.08.2010 to 19.06.2013.

8.It is not in dispute that the present Management had appointed D.Arul Praskh as B.T.Assistant (History) with effect from 18.08.2010. At that point of time, the school was under direct payment of the Government and hence, the original proposal dated 18.10.2010 for approval of the appointment was returned, on the ground of direct payment. The fourth appellant had approved the transfer of Management in the writ petitioner's name with effect from 18.09.2006. Consequently, a fresh proposal was submitted to the fourth appellant on 25.09.2013, seeking for approval of the appointment of D.Arul Prakash, which was approved with effect from 18.08.2010, through the proceedings of the fourth appellant dated 18.02.2014. However, the approval came to be cancelled on 19.05.2014, on the ground of discrepancy in the attendance register of the teacher.



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9. When the status of a minority institution has been declared, such status would revert back to the date of its establishment, since the minority status by itself is enshrined under Article 30 of the Constitution of India, which is not only a constitutional right of the institution, but also a fundamental right. A mere declaration of the existing right would not give rise to a cause of action to the appellants to restrict the minority status from the date of such declaration. Incidentally, the writ petitioner was constrained to approach the writ Court, seeking for declaration of the minority status in view of the Government's disinclination to declare such pre-existing status. Likewise, the writ petitioner was further constrained to challenge the Government Order limiting such minority status to five years and this litigation also was owing to the Government's misinterpretation of this legal position. The consequent passing of G.O.Ms.No.96, School Education (NI.VA.2) Department, dated 20.06.2013, will not amount to a fresh declaration of the minority status of the writ petitioner's school, but rather a ratification of the pre-existing right of the school. Thus, the order, dated 20.06.2013, approving the appointment of D.Arul Prakash from the date of G.O.Ms.No.96, School Education (NI.VA.2) Department, is not only misconceived, but also illegal.



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10.On perusal of the records produced by the learned counsel appearing for the respondent/writ petitioner would reveal that D.Arul Prakash has been working from the year 2010, which has been counter-signed by the authority concerned. Therefore, we are not inclined to interfere with the order passed by the writ Court.

11.In view of the above, we do not find any illegality or irregularity in the order passed by the Writ Court. Accordingly, this Writ Appeal is dismissed. With a direction to the fourth appellant to pass appropriate orders, approving the writ petitioner's appointment to the post of B.T Assistant (History) for the period between 18.08.2010 and 19.06.2013 together with all service, monetary and other attendant benefits, within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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

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NCC : Yes / No

Index : Yes / No



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Internet : Yes
ps

To

- 1.The Secretary,
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ORDER MADE IN
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DATED : 17.03.2025