



W.A(MD)No.700 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2025

CORAM :

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

**W.A(MD)No.700 of 2025
and
CMP(MD)No.4892 of 2024**

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2. The Director of School Education,
College Road, Chennai - 600 009.

3. The Chief Educational Officer,
Madurai-625 001,
Madurai District.

4. The District Educational Officer,
Madurai-625 001,
Madurai District.

... Appellants

vs.

The Correspondent
St. Mary's Higher Secondary School,
Madurai-625 001,
Madurai District.

... Respondent



W.A(MD)No.700 of 2025

WEB COPY PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 22.12.2023 made in W.P(MD)No.30802 of 2023.

For Appellants : Mr.J.Ashok
Additional Government Pleader
For Respondent : Mr.K.Ragatheesh Kumar for
M/s.Isaac Chambers

JUDGMENT

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

This writ appeal is filed against the order dated 22.12.2023 made in W.P(MD)No.30802 of 2023.

2. The writ petitioner / respondent school namely, St. Mary's Higher Secondary School, Madurai District, is a recognised and aided minority educational institution. In the said school, one post of B.T. Assistant (Mathematics) fell vacant on 01.07.2022 due to the voluntary retirement of the then incumbent. In the said vacancy, the school appointed a fully qualified candidate namely, Mr.T.Arun as



W.A(MD)No.700 of 2025

B.T.Assistant (Mathematics) with effect from 01.07.2022. However, the 4th appellant / D.E.O refused to approve the said appointment vide proceedings, dated 01.09.2022, citing G.O.Ms.No.165, School Education Department, dated 17.09.2019, wherein, it was instructed that until the surplus teachers working in minority and non-minority private aided schools were deployed to the needy schools, no new appointment should be made in any school and that no approval should be granted thereof. Challenging the said rejection order, the school filed the writ petition. The Writ Court relying upon the order passed by the Division Bench in *W.A(MD)No.76 of 2019 etc., batch dated 31.03.2021 [Secretary to Government, Government of Tamil Nadu, School Education Department vs. Iruthaya Amali]* set aside the rejection order and remitted the case to the 4th appellant with a direction that if he finds that the said appointment is within the staff fixation order for the relevant academic year, then the 4th appellant shall proceed to approve the appointment of T.Arun in the respondent school.



W.A(MD)No.700 of 2025

WEB COPY

3. Assailing the impugned order, though the appellants raised various grounds, the issue raised in this appeal is no longer *res integra*, in view of the decision of this Court in Iruthaya Amali's case (*supra*), wherein, the Division Bench has issued a compendium of schedule to be followed and Clause (v) therein is extracted hereunder:

"(v) Like that insofar as aided minority institutions are concerned, if it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength for the academic year 2021-22 shall not be affected because of the identified excess teachers in other schools. ..."

4. Admittedly, the respondent school is a stand-alone minority institution. Therefore, the question of surplus will not arise, unless it is shown that there are surplus teachers in the very institution. Admittedly, Mr.T.Arun was appointed in a sanctioned vacancy.

5. Hence, the Writ Appeal is dismissed. The appellants shall approve the appointment of Mr.T.Arun as B.T.Assistant (Mathematics)



W.A(MD)No.700 of 2025

with effect from 01.07.2022, within a period of twelve weeks from the date of receipt of a copy of this order and also pay all the salary and other benefits payable to him within the said period. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B, J.] [S.S.Y, J.]
25.03.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

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W.A(MD)No.700 of 2025

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