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W.P.(MD).No.27688 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.27688 of 2024

and

W.M.P.(MD).Nos.23496, 23498 & 23500 of 2024

L.Mariappan

...Petitioner

-Vs-

1. The Commissioner of School Education,
College Road, Chennai-600 006.

2. The Director of Elementary Education,
College Road, Chennai-600 006.

3. The District Educational Officer (Elementary),
Tirunelveli, Tirunelveli District.

4. The Block Educational Officer,
Cheranmahadevi, Tirunelveli District.

5. The Correspondent,
CMS Evangelical Schools,
Idayankulam and Kandithankulam Pastorates,
at Karisalpatti, Karisal-627 414,
Tirunelveli District.

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent District Educational Officer, (Elementary), Tirunelveli in Na.Ka.No.2671/A1/2023 dated 24.09.2024, and quash the same and further direct the respondents to approve the appointment of the petitioner as Headmaster in CMS Evangelical Primary School, Pattankadu, Tiruenlveli District w.e.f. 04.02.2022 and disburse grant-in-aid towards his salary and other monetary benefits.

For petitioner : Mr.S.Xavier Rajini

For Respondent Nos.1 to 4 : Mr.N.Satheeshkumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a Primary School Headmaster appointed to the fifth respondent school, challenging the order passed by the third respondent dated 24.09.2024, wherein, the proposal forwarded by the management for approval of his appointment has been rejected.



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2. The petitioner herein was appointed as the Headmaster of a Primary School through direct recruitment by the fifth respondent management with effect from 04.02.2022 onwards. When the proposal was forwarded by the management to the authorities for approval, the same was kept pending. The petitioner had filed W.P.(MD).No.13097 of 2023, seeking a mandamus to approve the appointment and to release the grant-in-aid. The said writ petition was disposed of on 19.06.2024, with a direction to the District Educational Officer (Elementary), Tirunelveli District, to consider the proposal forwarded by the management and pass orders for approving the appointment of the petitioner within a period of four weeks. In compliance of the orders of this Court, the present impugned order has been passed on 24.09.2024, wherein, the proposal has been rejected.

3. A perusal of the impugned order reveals that the proposal of the management has been rejected on the ground that the petitioner has not passed TET Examination and redeployment of surplus staffs has not yet been carried out. Apart from these two reasons no other reason has been assigned in the impugned order for rejecting the proposal of the management. This order is put to challenge in the present writ petition.



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4. According to the learned Counsel appearing for the writ petitioner, the petitioner having been appointed to a aided minority institution, a pass in TET examination is not mandatory and therefore, such a reason cannot be assigned by the authorities. He further contended that the petitioner having been appointed as a Headmaster, the question of redeployment of surplus teacher does not arise.

5. Per contra, the learned Additional Government Pleader appearing for the respondent had contended that, when the petitioner was appointed by the correspondent on 04.02.2022, his correspondentship was not yet approved. He relied upon the order dated 14.11.2022, under which the correspondentship has been approved. Therefore, according to the learned Additional Government Pleader when the correspondentship was approved only on 14.11.2022, the petitioner having been appointed on 04.02.2022, by the said correspondent, is an invalid appointment order and the same cannot be approved.

6. I have carefully considered the submissions made on either side and perused the materials available on record.



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7. As far the plea of pass in TET examination is concerned, the Hon'ble Division Bench of our High Court in paragraph No. 74(c) of the judgment reported in **2023 (3) LW 112 (The Director of School Education, D.P.I. Campus, College Road, Chennai -06 and two others Vs. Velayutham and another)** has categorically held that pass in TET examination is not mandatory for being appointed as a teacher in a Minority Institution. Therefore, such a reason assigned by the authorities is not sustainable in the eye of law.

8. The petitioner having been appointed as a Headmaster, the respondent authorities cannot raise the plea of surplus teachers in the management.

9. It is further contended that on the side of the authorities that, when the appointment order was issued to the writ petitioner on 04.02.2022, the correspondentship has not been approved. A perusal of the order dated 14.11.2022, reveals that the correspondentship of one Mr.David Stephen has been approved with effect from 16.11.2019 onwards for a period of three years. Therefore, the appointment order of the writ petitioner has been



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issued only by the correspondent whose correspondentship has been approved by the authorities. Such a reason cannot be raised by the authorities concerned.

10. In view of the above said facts, this court is inclined to pass the following orders :

a) The order impugned in this writ petition is hereby set aside and the matter is remitted back to the file of the third respondent.

b) The fifth respondent management is directed to submit all the documents (except TET Certificate) as mentioned in the impugned order dated 24.09.2024 to the third respondent within a period of two weeks from the date of receipt of a copy of this order.

c) On receipt of the records from the management, the third respondent is directed to approve the appointment of the writ petitioner with effect from 04.02.2022 onwards, with all attendant benefits and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of documents from the management.



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11. With the above said observations, this writ petition allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

09.01.2025

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