



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7008 of 2018

and

W.M.P.(MD)Nos.6698 and 6699 of 2018

The Correspondent,
St. Jude Thaddaeus Higher
Secondary School,
Pallam P.O.-629 601,
Kanyakumari District.

... Petitioner

Vs.

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

2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

3.The District Educational Officer,
Thuckalay, Kanyakumari District.

... Respondents

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 3rd respondent District Education Officer vide O.Mu.No.4200/A1/2017 dated 20.09.2017 Quash the same and further Direct the 3rd respondent District Educational Officer herein to approve forthwith the appointment of S.Anisha Michael as BT Assistant (Maths) in the petitioner's school w.e.f., 23.06.2017 with all attendant benefits including the arrears of salary and allowance.

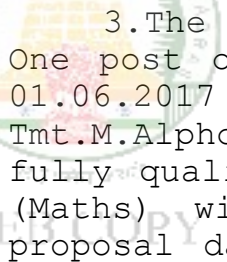
For Petitioner : Miss.Amala
for M/s.Isaac Chambers

For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.By consent of both the parties, the main Writ Petition itself is taken up for final disposal at the stage of admission.



3.The petitioner is a recognized Aided Minority institution. One post of Secondary Grade Teacher in the school fell vacant on 01.06.2017 due to the retirement of then incumbent Tmt.M.Alphonsammal on 31.05.2017. The petitioner appointed one fully qualified candidate viz., S.Anisha Michael as B.T. Assistant (Maths) with effect from 23.06.2017. The school submitted a proposal dated 04.08.2017 in this regard to the third respondent. The third respondent returned the proposal and called upon the petitioner to resubmit the proposal along with the No Objection Certificate from the second respondent.

4.The learned counsel appearing for the petitioner submits that they shall resubmit the proposal. The contention raised by the learned counsel appearing for the petitioner is that the re-submission of the proposal should be considered on merits and that the third respondent should not insist on obtaining prior permission from the respondents 1 and 2.

5.This submission is well founded. Admittedly, the post in question is a sanctioned one. The petitioner is a minority institution. Therefore, when vacancy arose in a sanctioned post, the question of obtaining prior permission from the Department does not arise. In this view of the matter, the order impugned in the Writ Petition stands quashed.

6.The petitioner is permitted to resubmit the proposal and the same shall be considered by the third respondent without insisting on obtaining prior permission or No Objection Certificate from the second respondent herein. The third respondent shall pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

7.The Writ Petition stands disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

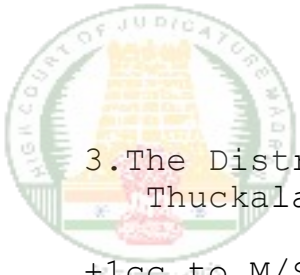
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Sub Assistant Registrar

To

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

2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.



3.The District Educational Officer,
Thuckalay, Kanyakumari District.

+1cc to M/S.Isaac Chambers, Advocate SR.No. 58727

+1cc to Special Government Pleader, SR.No. 59266

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28.03.2018

tsg

JM/SKN RSK/SAR 2/20.07.2018/3P/6C