

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9.9.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.1256 of 2015

- 1 THE DIRECTOR OF SCHOOL EDUCATION
DPI CAMPUS,
COLLEGE ROAD, CHENNAI- 6.
- 2 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(SECONDARY) DPI CAMPUS
COLLEGE ROAD, CHENNAI - 6.
- 3 THE DISTRICT EDUCATIONAL OFFICER
KAMATCHI JOSIAR STREET,
KUMBAKONAM
THANJAVUR DIST.Petitioners/Respondents

versus

THE CRESENT HIGHER SECONDARY SCHOOL
AVANIAPURAM ADUTHURAI VIA
THAJAVUR DIST.
REP BY ITS CORRESPONDENT
M.A. JAMAL ABDUL GANI ...Respondent/Petitioner

Appeal filed against the order passed by this Court dated 27.11.2014 passed in W.P.No.17356/2014.

Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 3rd respondent in Na. Ka. No.690/ A3/2014 dated 20.3.2014 and to quash the same and consequently direct the respondents to approve the appointment of Thiru.L.Muzammil Khan in the Post of Record Clerk in the petitioner School with effect from 1.2.2014 and to make payment of salary from the date of appointment with interest with all consequential and

other attendant benefits within a time frame to be fixed by this Court.

For Appellant : Mr.K.Karthikeyan,
Government Advocate

For Respondent : Mr.G.Sankaran

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

This intra court appeal is directed against the order dated 27 November 2014 in W.P.No.17356 of 2014 whereby and whereunder, the learned Single Judge after quashing the impugned order dated 20 March 2014, directed the appellants to approve the appointment made by the respondent.

2. Heard the learned Government Advocate appearing on behalf of the appellants.

3. The respondent is a minority institution. The State Government sanctioned one post of Record Clerk in 1971. The candidate appointed by the management as record clerk resigned from service. The respondent thereafter appointed Thiru.L.Muzammil Khan as Record Clerk by order dated 1 February 2014. The respondent after such appointment forwarded the proposal to the Department of Education for approval. The Education Department rejected the proposal on the ground that prior permission was not taken from the Director of Education to fill up the vacancy. The said order was put in issue before writ Court in W.P.No.17356 of 2014. The learned Single Judge was of the view that the approval was not meant for the incumbent but only for the post and as such, prior permission was not necessary.

4. The appellants in paragraph 5 of the memorandum of grounds of appeal conceded that based on the staff fixation report and annual inspection records, the respondent is eligible to fill up the vacancy.

5. The materials available on record would show that the Government have sanctioned one post of Record Clerk in Crescent Higher Secondary School, Avaniapuram. The appellants have no case that appointment was made in excess of the sanctioned post. There was no statutory prescription requiring prior sanction before filling up the sanctioned post. The learned Single Judge was perfectly correct in allowing the Writ Petition. We therefore do not find any reason to

take a different view in the matter.

6. In the upshot, we dismiss the Writ Petition. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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KUMBAKONAM
THANJAVUR DIST.
- 1 CC to Mr.G.Sankaran, Advocate SR.No. 49314
- 1 CC to the Government Pleader, SR.No. 49292

W.A.No.1256 of 2015

GP (CO)
PSI (01.10.2015)

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