

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D. HARI PARANTHAMAN

W.P.No.4005 of 2013
W.P.Nos.237 and 1386 of 2015
M.P.No.2 of 2013
M.P.Nos.1 and 1 of 2015

S.Issac Vijay Anand
Petitioner in all W.Ps.

...

v.

1. The Director of School Education,
College Road, Chennai 600 006. ...1st Respondent in all W.Ps.

2. The Chief Educational Officer,
Tiruvannamalai District,
Tiruvannamalai 606 601.

3. The District Educational Officer,
Tiruvannamalai District,
Tiruvannamalai 606 601.
2 and 3

... Respondents

in W.P.Nos.4005/13 & 237/15

4. The Chief Educational Officer,
Villupuram District, Villupuram.

5. The District Educational Officer,
Kallakurichi Range,
Villupuram District.
and 3

... Respondents 2

in W.P.No.1386 of 2015

6. The Secretary,
The Arcot Lutheran Church,
ALC Central Office,
No.9, ALC Campus,
Cuddalore 607 001.
Respondent in all W.Ps.

...

4th

7. The Correspondent,
Danish Mission Higher Secondary School,
Tiruvannamalai 606 601,
Tiruvannamalai District. ... 5th Respondent in
WP.4005/13

8. The Bishop President,
The Arcot Lutheran Church,
ALC Central Office,
No.9, ALC Campus,
Cuddalore 607 001. ... 5th
Respondent in WP.237/15

5th Respondent in WP.1386/15

9. Mr.D.Augustine Jayakumar,
S/o.David,
Physical Education Teacher,
Danish Mission Higher
Secondary School,
Kariyalur, Villupuram District.
... 6th Respondent in WP.1386/15

10. The Correspondent
Danish Mission Higher Secondary School
Kariyalur Villupuram District. ..7th Respondent in W.P.1386/15

Prayer in W.P.No.4005 of 2013: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records, on the file of the 3rd respondent in his Na.Ka.No.6130/A3/2012, dated 31.10.2012, quash the same and consequently, directing the 3rd respondent herein to approve the appointment of the petitioner, as Physical Education Teacher in the 5th respondent-School, as per G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997.

Prayer in W.P.No.237 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 4th and 5th respondents to accommodate/post the petitioner in the vacancy of Physical Education Teacher post at Danish Mission Higher Secondary School, Kariyalur, Villupuram District.

Prayer in W.P.No.1386 of 2015: Writ Petition filed under Article

226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the 3rd, 4th, 5th and 7th respondents, from forwarding and approving the appointment of 6th respondent as physical education teacher post at Danish Mission Higher Secondary School, Kariyalur, Villupuram District.

Mr.J.Selvarajan

For Petitioner(in all WPs):

For Respondents 1to3
in all WPs. : Mr.M.E.Raniselvam,

Addl. Govt. Pleader

Mr.T.K.Bhaskar

For 4th Respondent
in all WPs :

For Respondents
R5-in WPs.4005/13

& 237/15

R5to7 in WP.1386/15 : No appearance

O R D E R

The petitioner was appointed as Physical Education Teacher at Danish Mission Higher Secondary School, Tiruvannamalai, vide proceedings of the 6th respondent herein, dated 03.08.2012. Thereafter, the School Management has sought the Educational Authorities to approve his appointment. But the District Educational Officer, Thiruvannamalai, has passed an order, dated 31.10.2012, rejecting the request for approval, in the regular appointment, on the ground that the School Management has made appointments, beyond the sanctioned strength. Against the said order, the petitioner has filed W.P.No.4005 of 2013 and the same was admitted on 19.02.2013.

2. While so, the petitioner expected that he would be accommodated in the vacancy, that would arise in the 6th respondent's minority educational institutions. There was also a vacancy in the Higher Secondary School at Kariyalur, Villupuram District, under the same Management. As the petitioner was of the view that he would not be posted at Kariyalur, he filed W.P.No.237 of 2015, seeking direction of the 6th respondent-Management to post him in the vacancy as Physical Education Teacher, at their Higher Secondary School, Kariyalur, Villupuram District. On 07.01.2015, while ordering notice, this Court has passed the following order:

"The petitioner was appointed as Physical Education Teacher by the 4th respondent. The appointment was made on 03.08.2012 and he was allotted to Danish Mission

Higher Secondary School, Tiruvannamalai. Since the appointment was more than the sanctioned post, the educational authorities refused to approve the appointment. It is the case of the petitioner that another employee, who was also similarly situated was accommodated by the Management in another institution. However, the petitioner has not been accommodated. It is the further case of the petitioner that there is a vacancy in the post of Physical Education Teacher, under the very same Management and there is an attempt to fill up the said post.

2. Notice of motion returnable by 16.02.2015. Private notice is also permitted.

3. There shall be an interim order directing respondents 4 and 5 to keep one post of Physical Education Teacher vacant until further orders."

3. It is made clear from the above order that this Court has directed the School Management to keep one post vacant, until further orders. But one Mrs.D.Augustine Jayakumar, 9th respondent herein, was appointed as Physical Education Teacher at Danish Mission Higher Secondary School, Kariyalur, Villupuram District, with effect from 07.01.2015, pursuant to the resolution of the Church Board of the School Management on 22.12.2014. The resolution of the meeting of the Church Board, held on 22.12.2014, resolved to appoint the 9th respondent herein, as Physical Education Teacher at their Higher Secondary School, Kariyalur, is produced before this Court, by the School Management.

4. In these circumstances, the petitioner has filed another W.P.No.1386 of 2015, seeking to forbear the educational authorities to approve the appointment of the aforesaid person, Mrs.D.Augustine Jayakumar, 9th respondent herein. This Court, while ordering notice, on 22.01.2015, has granted interim injunction, restraining the Educational Authorities from approving the appointment of the 9th respondent herein, until further orders.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Learned counsel for the 6th respondent herein has fairly submitted that a decision was taken in the Church Board on 22.12.2014, to appointment Mrs.D.Augustine Jayakumar, 9th respondent herein, as as Physical Education Teacher at Danish Mission Higher Secondary School, Kariyalur, Villupuram District and that the School has no intention to defeat the claim of the petitioner, since he was already appointed on 03.08.2012. He further submitted that the School itself has sought for approval of the appointment of the petitioner, but the Educational Authorities have rejected the

proposal sent by the School Management.

7. Learned counsel for the 6th respondent submits that in the next vacancy, that would arise in anyone of the boys schools, under the school management, the petitioner would be appointed. He further submitted that the same can be taken as an undertaking and that the writ petitions can be disposed of, accordingly.

8. Learned counsel for the petitioner submits that the petitioner has been working as Management staff (ie., paid by the Management) as Physical Education Teacher, from 03.08.2012 and hence, his services need not be disturbed. It is stated by the learned counsel for the 6th respondent herein that the petitioner would be continued as management staff, till he is appointed, as per the undertaking.

9. Recording the undertaking made by the learned counsel for the 6th respondent herein, the writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skm
To

1. The Director of School Education,
College Road, Chennai 600 006.
2. The Chief Educational Officer,
Tiruvannamalai District,
Tiruvannamalai 606 601.
3. The District Educational Officer,
Tiruvannamalai District,
Tiruvannamalai 606 601.
4. The Chief Educational Officer,
Villupuram District, Villupuram.
5. The District Educational Officer,
Kallakurichi Range,
Villupuram District.

+1cc to M/s. J. Selvaraj, Advocate, S.R.No.28739

+2ccs to M/s. Srinath Sridevan, Advocate, S.R.No.29102,29105/2015

CA(CO)
EU(03/07/2015)

W.P.No.4005 of 2013