

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.3.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.27735 of 2013
and
MP.No.1 of 2013

C.Nambikkairaj

...Petitioner

Vs.

1. The Director of School Education
(Higher Secondary)
College Road, Nungambakkam
Chennai - 600 006
2. The Chief Educational Officer
Vellore District, Vellore - 632 009
3. The District Educational Officer
Vellore District, Vellore - 632 001
4. The Correspondent
L.F.C.Girls Higher Secondary School
Ranipet, Vellore District
Pin - 632 401

...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus calling for the proceedings in O.Mu. No.6120/A1/2010 dated 29.7.2011 of the 3rd respondent herein and set aside the same and to direct the 4th respondent to resubmit the proposal dated 10.12.2010 for the approval of the appointment of the petitioner which was returned by the 3rd respondent and direct the 3rd respondent to forward the same to the 1st respondent and further direct the 1st respondent to approve the petitioners appointment as Night Watchman at the 4th respondent School from the date of appointment viz. 6.2.2007 with salary and all other attendant and consequential benefits including the arrears of salary and allowances arising thereof.

For Petitioner : Mr. S.N.Ravichandran
For Respondents 1 to 3 : Mr.M.S.Ramesh
Additional Government Pleader

O R D E R

The petitioner was appointed as night watchman by the fourth respondent. The appointment was made against the sanctioned post. The fourth respondent, stated to be a minority institution, submitted a proposal for approval of appointment. The proposal was returned on the ground that before making appointment, prior permission was not taken by the Management. The said order is under challenge in this writ petition.

2. The impugned order indicates as if prior permission should be taken before appointing the employee even against the sanctioned post.

3. The issue raised in this writ petition is no more res integra in view of the decision of this Court dated 21.10.2009 in WP.(MD)No.509 of 2009 and the subsequent judgment of this Court dated 15.10.2014 in W.A.No.1012 of 2009. Under similar circumstances, having found that appointments were made against the sanctioned post, the Division Bench rejected the appeals preferred by the Government against the order passed by the learned single Judge directing approval of appointment. The petitioner is similarly situated. He should also be given the benefits of the earlier orders passed by this Court.

4. In the result, the impugned order is set aside. The fourth respondent is directed to re-present the proposal to the District Educational Officer, Vellore. The District Educational Officer is directed to consider the proposal and dispose of the same in the light of law declared by this Court as indicated in the above referred to judgment. Such exercise shall be completed within a period of three months from the date of receipt of such proposal.

4. The writ petition is allowed to the extent indicated above. No costs. MP is also closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

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College Road, Nungambakkam
Chennai - 600 006
2. The Chief Educational Officer
Vellore District, Vellore - 632 009
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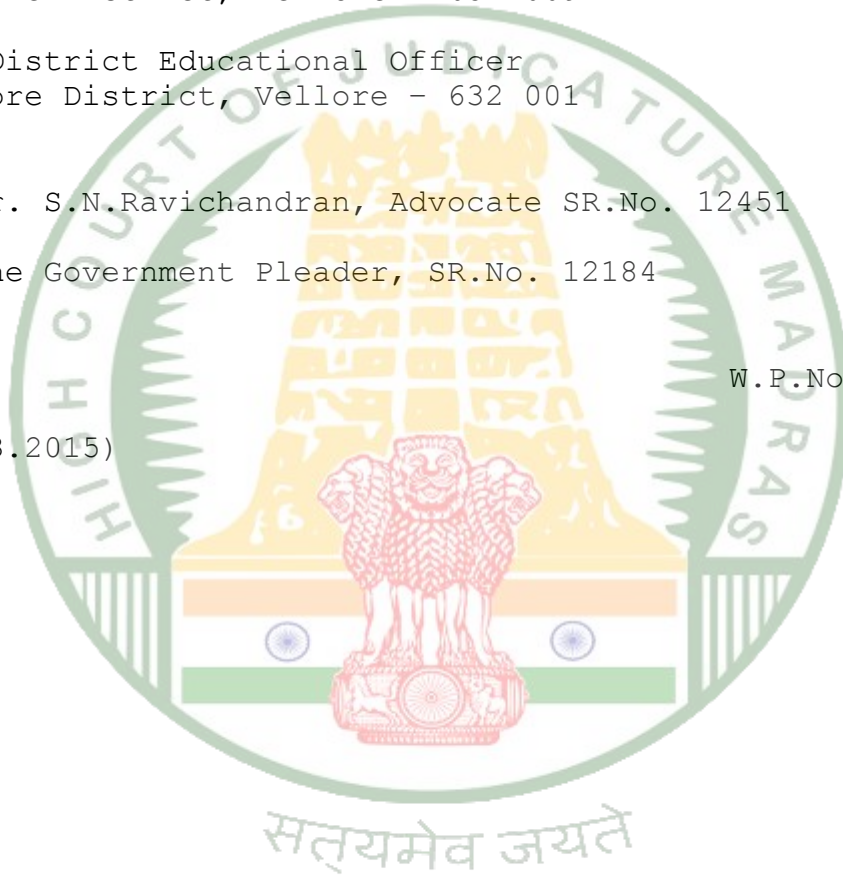
1 CC to Mr. S.N.Ravichandran, Advocate SR.No. 12451

1 CC to the Government Pleader, SR.No. 12184

W.P.No.27735 of 2013

VSN (CO)

PSI (19.03.2015)



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