

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2016

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

Writ Petition No.5105 of 2015

Little Flower Girls Higher Secondary School,
Ramanputhooor, Nagercoil,
Kanyakumari District
rep. by its Correspondent
Rev. St. Fatima Paul

... Petitioner

vs.

1. The Government of Tamil Nadu
rep. by its Secretary,
Government Education Department,
Fort St. George, Chennai-9.
 2. The Director of School Education,
College Road, Chennai-600 006.
 3. The Chief Educational Officer,
Nagercoil, Kanyakumari District.
 4. The District Educational Officer,
Nagercoil, Kanyakumari District.
- ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to approve the appointment of one Sr.Maryvictoria as Record Clerk in the petitioner school from the date of appointment i.e. 07.06.2012 and pay salary and other benefits.

For Petitioner : Ms.P.Mahalakshmi
For Respondents : Mr.R.Rajeswaran,
Special Government Pleader

ORDER

The Writ Petition has been filed seeking a direction to approve the appointment of one Sr.Maryvictoria as Record Clerk in the petitioner school from the date of her appointment i.e. 07.06.2012 and pay salary and other benefits.

2. According to the Writ Petitioner, the post of Record Clerk in the petitioner School is a sanctioned post and being a Minority Institution, they are entitled to fill up the post on their own.

3. Learned Special Government Pleader would submit that though the post of the Record Clerk is a sanctioned post in the petitioner's school, it is for the Government to pass necessary orders in this regard and therefore, the appointment made by the petitioner school was returned on 03.04.2003.

4. Per contra, the learned Counsel appearing for the petitioner has taken the attention of this Court to G.O.Ms.No.203, Education (D1) Department, dated 23.07.2010 in which the Government has lifted the ban on appointments and granted permission to fill up the vacant posts of Non-teaching staffs and also to pay the full time pay scale along with the subsidy granted by the Government.

5. Admittedly as found in Annexure-II to the said G.O.Ms.No.203, the post of Record Clerk is mentioned and there is no severe objection from the Government for making appointment by the schools. It is stated that they should get prior approval before making such appointments. In the counter, I find no legal impediment to make such appointment by the school itself in the sanctioned post of non-teaching staff which is a Record Clerk. Further, the issue is covered by a decision of the Madurai Bench of Madras High Court, Madurai in W.P.(MD) Nos.11481 of 2008 and etc. batch dated 15.03.2016 in Deva Asir vs. The Secretary to Government, School Education Department, State of Tamil Nadu, Secretariat, St. Fort George, Chennai-9 and 3 others.

6. In view of all the above, the Writ Petition is allowed and the respondents are directed to consider the approval of the appointment of one Sr.Maryvictoria as Record Clerk in the petitioner school from the date of her appointment i.e. 07.06.2012 and pay salary and other benefits in accordance with law. No costs.

tsi

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Government Education Department,
Fort St. George, Chennai-9.
2. The Director of School Education,
College Road, Chennai-600 006.
3. The Chief Educational Officer,
Nagercoil, Kanyakumari District.
4. The District Educational Officer,
Nagercoil, Kanyakumari District.

+1cc to Mr.P. Mahalakshmi, Advocate, S.R.No.57510

KS(CO)
md(3/11/2016)

W.P.No.5105 of 2015



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