



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2016

CORAM

THE HONOURABLE **MR. JUSTICE T. RAJA**W.P(MD) .No.4226, 4228, 4231 and 4229 of 2015
andW.P(MD)No.8519 to 8523 and 8524 to 8528 of 2016
andW.M.P(MD)Nos.6822, 6824, 6826, 6828, 6830
and
6831 to 6840 of 2016

The Administrator, MKN Madarsha Trusts
Adirampattinam, Pattukottai Taluk,
Thanjavur District.

... Petitioner in WP(MD)Nos.4226,
4228, 4229 & 4231/2015

R.Immanuvel Kovil Raja Guru ... Petitioner in WP(MD)No. 8519/2016
S.Sathiyaseelan ... Petitioner in WP(MD)No. 8520/2016

M.Simen ... Petitioner in WP(MD)NO. 8521/2016
M.George Samuel ... Petitioner in WP(MD)No. 8522/2016
S.Mary ... Petitioner in WP(MD)No. 8523/2016
P.John ... Petitioner in WP(MD)No. 8524/2016
D.J.Jebadurai sam Nathaniel ... Petitioner in WP(MD)No. 8525/2016
S.Gunasekaran ... Petitioner in WP(MD)No. 8526/2016
D.J.Catherin Inba Glory ... Petitioner in WP(MD)No.8527/2016
L.Godwin ... Petitioner in WP(MD)No. 8528/2016

Vs.

1.The Director of Collegiate Education,
College Road,
Chennai.

2.The Joint Director of Collegiate Education,
Trichirappalli Region,
Trichy.

... Respondents in WP(MD)Nos.4226,
4228 & 4231/2015

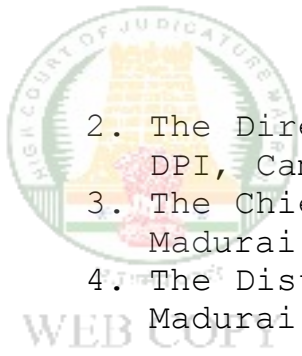
1 The Joint Director of School Education
College Road, Chennai.

2 The District Educational Officer,
Pattukottai, Thanjavur Dt.

... Respondents in WP(MD)No.4229/2015

1. The Govt.of Tamilnadu

Secretary to Government,
School Education Department, Secretariat,
Chennai 600 009.



2. The Director of School Education,
DPI, Campus, College Road, Chennai 600 006.
3. The Chief Educational Officer, Madurai,
Madurai District
4. The District Educational Officer,
Madurai ... 1 to 4th respondents in WP's (MD)
No. 8519, 8520, 8521, 8522 and
8526/2016

5. The Correspondent, Pasumalai Higher Secondary School,
Pasumalai, Madurai. ... 5th Respondent in WP (MD) No.
8519/2016

5. The Correspondent
Capron Hall Girls Higher Secondary School
Madurai. ... 5th Respondent in WP (MD) No.
8520, 8521, 8522 and 8526/2016

1. The Government of Tamilnadu, Rep. by Sec. to Govt.
School Education Dept., Secretariat, Chennai- 09.
2. The Director of School Education, DPI, Campus,
College Road, Chennai - 6.
3. The Chief Educational Officer, Madurai, Madurai District.
4. The District Educational Officer, Melur,
Madurai (North) ... 1 to 4th Respondents in WP's (MD).
No. 8523, 8524, 8525/2016

5. The Correspondent,
O.C.P.M. Girls Higher Secondary School,
Madurai. ... 5th respondent in WP (MD) No.
8523, 8524, 8525/2016

1. The Government of Tamilnadu, Rep. by Sec. to Govt.
School Education Dept., Secretariat, Chennai- 09.
2. The Director of School Education, DPI, Campus,
College Road, Chennai - 6.
3. The Chief Educational Officer, Madurai, Madurai District.
4. The District Educational Officer, Melur,
Madurai
5. The Correspondent,
O.C.P.M. Girls Higher Secondary School,
Madurai. ... 1 to 5th Respondents in WP (MD) No.
8527/2016

1. The Government of Tamilnadu,
Rep. by Secondary to Govt. School Education Department
Secretariat, Chennai - 9.
2. The Director of School Education, DPI, Campus,
College Road, Chennai - 6.
3. The Chief Educational Officer, Madurai, Madurai District.



4. The District Educational Officer, Melur, DEO,
Madurai

5. The Correspondent,

American College Higher Secondary School,
Madurai.

... Respondents in WP(MD)No. 8528/2016

Prayer in WP(MD)No. 4226/2015 :

Writ petition is filed Under article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to O.Mu.No.6760/A2/2012 dated 30.01.2013 issued by the 2nd respondent and quash the same and consequently directing the respondents to approve the appointmnet of S.Khadir Mohideen as Library Assistant in Khadir Mohideen College, Adirampattinam, Thanjavur with effect from 01.11.2012 with all consequential monetary and other service benefits.

Prayer in WP(MD).No. 4228/2015 :

Writ petition is filed Under article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus , directing the respondents to approve the appointmnet of Ms. S.Lalitha as Laboratory Assistant in Khadir Mohideen College, Adirampattinam, Thanjavur with effect from 01.04.2010 with all consequential monetary and other service benefits.

Prayer in WP(MD)No. 4231/2015 :

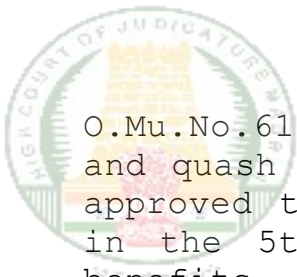
Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to approve the appointment of Ms. V. Suganthikumari as Typist in Khadir Mohideen College, Adirampattinam, thanjavur with effect from 10.08.2012 with all consequential monetary and other service benefits.

Prayer in WP(MD)No.4229/2015 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to approve the appointment of S. Najumudeen as Office Assistant in Khadir Mohideen Boys Higher Secondary School, Adirampattinam, Thanjavur with effect from 23.08.2012 with all consequential monetary and other service benefits.

Prayer in WP(MD)No. 8519/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in



O.Mu.No.6129/Aa2/2015 dated .09.2015 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Record Clerk in the 5th respondent school 22.07.2015 with all consequential benefits.

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Prayer in WP(MD)No.8520/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in O.Mu.No.1603/A4/2014 dated 20.06.2014 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Office Assistant in the 5th respondent school 17.02.2014 with all consequential benefits.

Prayer in WP(MD)No. 8521/2016 :

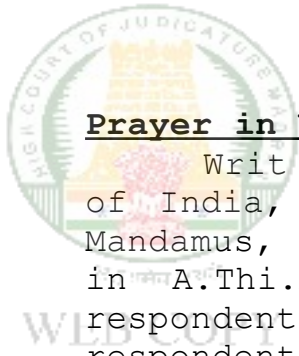
Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.8154/A4/2015 dated 17.07.2015 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Gardner in the 5th respondent school 08.12.2014 with all consequential benefits.

Prayer in WP(MD)No. 8522/2016:

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in O.Mu.No.6705/A4/2014 dated 20.06.2014 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Junior Assistant in the 5th respondent school 10.10.2014 with all consequential benefits.

Prayer in WP(MD)No. 8523/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in A.Thi.Mu.50/A2/2014 dated .02.2014 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Library Assistant in the 5th respondent school 01.11.2013 with all consequential benefits.



Prayer in WP(MD)No. 8524/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to t he impugned order in A.Thi.Mu.1004/A3/2009 dated 06.04.2009 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of office assistant in the 5th respondent school with effect from 01.06.2007 with all consequential benefits.

Prayer in WP(MD)No. 8525/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to t he impugned order in A.Thi.Mu.1003/A3/2009 dated 06.04.2009 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Waterman in the 5th respondent school with effect from 27.01.2006 with all consequential benefits.

Prayer in WP(MD)No. 8526/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to t he impugned order in O.Mu.575/A4/2015 dated 17.07.2015 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Office Assistant in the 5th respondent school with effect from 21.01.2015 with all consequential benefits.

Prayer in WP(MD)No. 8527/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in A.Thi.Mu.5863/A2/2014 dated .10.2014 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Library Attender in the 5th respondent school with effect from 07.08.2014 with all consequential benefits.

Prayer in WP(MD)No. 8528/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in NA.Mu.2802/AA1/2014 dated .05.2014 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of Office



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Assistant in the 5th respondent school with effect from 21.04.2014 with all consequential benefits.

For petitioners : Mr.G.R.Swaminathan WP(MD)Nos.4226, 4228, 4231 and 4229/15
: M/s.S.Anwar Sameem
WP(MD)Nos.8519 to 8523/16 WP(MD)No. 8524 to 8528/2016

For Respondents : Mr.T.R.Janarthanan
Special Govt.Pleader
WP(MD)No. 4226, 4228, 4231/15

For respondents : Mr.V.R.Shanmuganathan
Special Govt.Pleader
WP(MD)No. 4229/15
WP(MD)No. 8519 to 8523/2016 for RR1 to 4 WP(MD)No.8524 to 8528/2016 for RR1 to 4

For Respondent No.5: No appearance
WP(MD)No.8519 to 8523/2016
WP(MD)No.8524 to 8528/2016

COMMON ORDER

Challenging either the rejection/return of proposals of the respective minority schools, seeking to approve the appointments made by them for the Non Teaching Posts as against the sanctioned vacancies or seeking a direction to the official respondents to grant approval for the appointments made by such minority schools, these writ petitions have been filed. Approval has been rejected on the ground that prior permission should be obtained before filling up any vacancy in a sanctioned Post.

2.With regard to the legal position in respect of minority institutions, whether prior permission should be obtained before filling up any vacancy in a sanctioned Post, the Honourable Division Bench of this Court even three years ago, in **P.Ravichandran v. State of Tamil Nadu and others** reported in **(2013) 7 MLJ 641**, has settled the issue. It is relevant to extract paragraph Nos.17 and 20 of the above said judgment:-

17. A Division Bench of Madurai Bench of this Court in W.A(MD)No.462 of 2006, judgment, dated 01.12.2006, considered the scope of Rule 11(1) of the Tamil Nadu Private Colleges(Regulation) Rules, 1976 relying upon the earlier order passed on 13.08.2006, and held that for filling up an existing post in a



Private Aided College, no prior approval is necessary as any such appointment shall be subsequently approved by the Department, and at that point of time the Department would have an opportunity to consider the availability of such post and rejection of approval on the ground that no prior approval was obtained before appointment, was set aside. Same is the view taken in the following orders of this Court .

(i) W.P.No.30618 of 2005, order dated 21.09.2005;

(ii) W.P.No.28396 of 2004, order dated 29.03.2006;

(iii) W.A.Nos.92 & 93 of 2008, judgment dated 06.01.2010;

(iv) W.P(MD) No.174 of 2009, order dated 27.04.2010;

(v) W.A.Nos.140, 811/2006 & 805/2007, judgment dt. 21.10.2010;

(vi) W.A.No.2858 of 2010, judgment dated 21.03.2011;

(vii) W.A(MD) Nos.1088 of 2011, judgment dated 19.10.2011;

(viii) W.A.Nos.2345 of 2011, judgment dated 05.03.2012;

(ix) Dr.S.Sukumaran v. State of Tamil Nadu, (2012) 5 MLJ 670 rendered by one of us (NPVJ); and

(x) W.A.No.474 of 2013, judgment dated 03.04.2013.

Thus, the issue regarding seeking prior permission for filling up the vacant post in aided College within the academic year was already settled in series of decisions and all the above said orders are implemented by the respondents 1 and 2. In such circumstances, it is not open to the respondents to again and again contend that only after getting prior permission from the Director of Collegiate Education, vacant sanctioned posts can be filled up by the management.

.....

20. In the light of the above findings as well as the decisions, we conclude this judgment in the following manner:

(1) There is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned



for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

(2) If the appointment made by the College Committee in the sanctioned vacant post is in violation of any of the statutory provision, it is open to the Regional Joint Director of Collegiate Education to deny grant-in-aid to the said person appointed in the vacant post.

(3) The teaching staff appointed must be fully qualified, whose qualification is approved by the University to which the college is affiliated. Insofar as the non-teaching staff are concerned, the candidate must possess the qualification prescribed by the Government.

(4) The College Committee while filling up the vacant post, should follow the procedures stated in Rule 11(1A) to 11(4)(ii).

(5) If there is no rival candidate for any post, the appointment is bound to be approved for the purpose of payment of pay and allowances, by the Regional Joint Director of Collegiate Education.

The writ appeal is disposed of with the above directions. No Costs.

3.A cursory reading of the aforementioned Honourable Division Bench judgment in (2013) 7 MLJ 641, clearly shows that the issue raised in the present Writ Petitions, is no longer *res integra*, because the Honourable Division Bench of this court in the aforementioned judgment has also made it clear that there is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges(Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

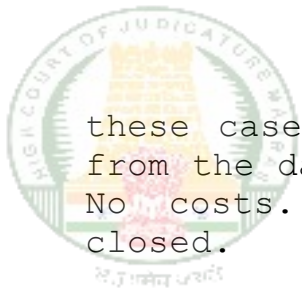
4. Therefore, the issues raised in the present Writ Petitions having been settled by this Court, I have no hesitation to accept the prayer made by the petitioners.

5. In the result,

(i) All the Writ Petitions are allowed.

<https://hcservices.ecourts.gov.in/hcservices> The signed orders are set aside.

(iii) The respective respondents are directed to approve the appointments of non-teaching staff in the Private Aided Schools in



these cases and to sanction grant, within a period of four weeks from the date of receipt of a copy of this order.
No costs. Consequently, Connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Director of Collegiate Education,
College Road, Chennai.
- 2.The Joint Director of Collegiate Education,
Trichirappalli Region,Trichy.
- 3.The District Educational Officer,
Pattukottai, Thanjavur District.
- 4.The Secretary to Government
The Government of Tamilnadu
School Education Department
Secretariat,Chennai 600 009.
- 5.The Chief Education Officer,
Madurai, Madurai District.
- 6.The District Educational Officer
Madurai.
7. The Director of School Education
DPI Campus, College Road, Chennai 600 006.
8. The District Educational Officer
Melur, Madurai (North)
- 9.The District Educational Officer
Melur, Madurai.

+3cc's M/s.G.R.SWAMINATHAN,ADVOCATE SR.No. 47530, 47523, 47524
+5cc M/s.FERNANDUS RATHINA RAJA,ADVOCATE SR.No. 47529, 47528,
47532, 47527, 47531
+1cc M/S.SPECIAL GOVT.PLEADER SR.No.46726,46727,46790, 47249,47282
skn
JA-AAL-MPA-03.10.2016-9P:19C

W.P (MD) .No.4226, 4228, 4231 and 4229 of 2015
and
W.P (MD)No.8519 to 8523 and 8524 to 8528 of 2016
23.08.2016