



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.09.2016

Coram

THE HON'BLE MR.JUSTICE **T.RAJA****Writ Petition (MD)No.16437 of 2016**

The Secretary,
Sri Ram Nallamani, Yadava (Girls)
Higher Secondary School,
Tirupalai,
Madurai-14.

. . . Petitioner

-Vs-

1.The Secretary to Government,
School Education Department
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-9.

2.The Director of School Education,
College Road, Chennai-06.

3.The District Educational Officer,
Melur,
Madurai District.

. . . Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for records relating to the return of the request of the petitioner for the approval of the appointment of V.Rajesh Kannan as Junior Assistant in his impugned proceedings O.Mu.No.4883/A3/2016 dated 16.08.2016 on the file of the 3rd respondent herein and to quash the same and consequently direct the respondents to approve the appointment of V.Rajesh Kannan as Junior Assistant and sanction salary from the date of appointment i.e.11.07.2016.

For petitioner

:Mrs.P.Jessi Jeeva Priya

For respondents

:Mr.T.S.Mohamed Mohideen
Addl. Government Pleader

**ORDER**

The only issue raised in the present Writ Petition is, whether prior permission is to be obtained by the management of private aided colleges/schools to fill up the vacancies of teaching and non-teaching staff arising in the sanctioned Posts during the middle of the academic year in the absence of any prohibitory order issued by the Government for filling up such vacancies.

2. In this connection, it is pertinent to extract the relevant portion of the judgment of the Honourable Division Bench of this Court in *P.Ravichandran Vs. State of Tamil Nadu and Others* reported in (2013) 7 MLJ 641.

(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.

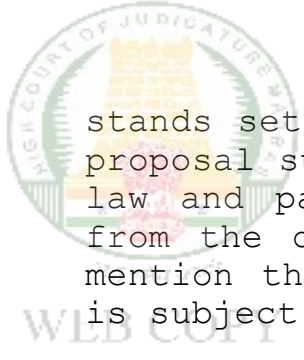
(3) The teaching staff appointed must be fully qualified, whose qualification is approved by the University to which the college is affiliated. Insofar as the non-teaching staff are concerned, the candidate must possess the qualification prescribed by the Government.

(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 mere reading of the above ratio laid down by this Court candidly shows that prior permission to fill up any vacant Post in an aided college, which is already a sanctioned Post, from the Director under Rule 11(1) of the Tamil Nadu Private Colleges Regulation Rules, is not required. Following the afore-said order, by an order, dated 02.09.2016, this Court also
<https://hcservices.mca.gov.in/hcservices/> (MD).No.20347 of 2014 and a batch Writ Petitions in W.P(MD)Nos.17916 to 17922, 17835 of 2015 and 2093 of 2016, dated 19.08.2016. Therefore, the order impugned in this Writ Petition



stands set aside and the respondents are directed to consider the proposal submitted on 14.07.2016, on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. Needless to mention that the request of the petitioner for grant of approval is subject to the staff fixation.

4. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
School Education Department
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-9.

2.The Director of School Education,
College Road, Chennai-06.

3.The District Educational Officer,
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+1 cc to Special Government Pleader SR.No.50026

W.P. (md) .NO.16437 of 2016
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SMA/GSV-PM/08.11.2016:3P/5C