

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 01.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA****W.P. (MD) No.16619 of 2016**

Infant Jesus (G) High School,
Mulagumoodu,
Mulagumoodu Post,
Kanyakumari District,
represented by its Correspondent,
Sr.A.Magdalene Therese.

... Petitioner

Vs.

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

2. The Director of School Education (Secondary),
College Road,
Chennai-6.

3. The Chief Educational Officer,
Kanyakumari,
Kanyakumari District.

4. The District Educational Officer,
Thuckalay,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the fourth respondent to approve the appointment of F.Helen Shanthi as sweeper in the petitioner School w.e.f. 01.03.2008 (F.N.) with all consequential monetary benefits and arrears of salary as per proposal submitted by the School dated 13.11.2015, within the time fixed by this Court.

For Petitioner : Mr.S.Manikandan

For Respondents : Mr.T.S.Mohamed Mohideen

Additional Govt. Pleader

O R D E R

The petitioner School has come to this Court seeking a writ of Mandamus directing the District Educational Officer, Thuckalay, Kanyakumari District, the fourth respondent herein to approve the



appointment of F.Helen Shanthi as sweeper in the petitioner School with effect from 01.03.2008 with all consequential monetary benefits and arrears of salary as per the proposal submitted by the School on 13.11.2015.

2. Heard Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader appearing for the respondents.

3. The petitioner School being a recognised private Government Aided Minority High School under the management of Immaculate Heart of Mary, Trichy, has appointed one F.Helen Shanthi as sweeper in a sanctioned post fell vacant on account of retirement of another incumbent M.S.Lourdes, on 28.02.2008. After appointing F.Helen Shanthi with effect from 01.03.2008, a proposal has already been sent to the fourth respondent. But till date, for the reasons best known to them, no final order has been passed approving the appointment of the petitioner as sweeper. This Court has already settled the issue relating to the approval of appointment of any non-teaching staff, if any incumbent is appointed on a sanctioned post. Admittedly, in the present case, the petitioner School had appointed one M.S.Lourdes as sweeper and after retirement of the said incumbent, on 28.02.2008, one F.Helen Shanthi was appointed to the said post with effect from 01.03.2008. Therefore, this Court finds no impediment to direct the fourth respondent to consider the proposal sent by the petitioner School, in the light of the order passed by this Court in W.P.(MD).Nos.10233 of 2016 etc., which is given as under:

"8. A cursory reading of both the learned single judge's order, dated 15.03.2016 in W.P(MD)No.11481 of 2008 etc., batch and Paragraph No.20 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 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.

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

10. In the result,

(i) All the Writ Petitions are allowed.

(ii) Accordingly, the impugned orders are set aside.

(iii) The respondents are directed to approve the appointments of non-teaching staff in the Private Aided Schools on grant, within a period of eight weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, the connected

Miscellaneous Petitions are closed."

4. Since I have already held no prior permission is required to fill up any vacant post in an Aided Minority Educational Institutions, if the same has already been sanctioned, the fourth respondent shall consider the request of the petitioner, as per the proposal submitted by the School on 13.11.2015.

5. With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Department of School Education, Fort St. George, Chennai -9.
2. The Director of School Education (Secondary),
College Road, Chennai-6.
3. The Chief Educational Officer,
Kanyakumari, Kanyakumari District.
4. The District Educational Officer,
Thuckalay, Kanyakumari District.

+1 cc to M/s.S.Manikandan, Advocate in SR.No.49841
+1 cc to The Special Government Pleader in 50022

akv

CSL/SK-SKN/17.10.2016 :3P/7C

W.P. (MD) No.16619 of 2016

01.09.2016