



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :02.09.2016
CORAM
THE HONOURABLE MR.JUSTICE T.RAJA
W.P. (MD) .No.16690 of 2016

WEB COPY

V.K.P.Higher Secondary School,
Colachel, Kanyakumari District,
rep.by its Correspondent,
Mr.B.Lalitha Bai Thankachy

... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by its Principal Secretary to Government,
Department of School Education,
Fort.St.Geroge,
Chennai-600 009.

2.The Director of School Education (Secondary),
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Kanyakumari
Kanyakumari District

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

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a a Writ of Mandamus directing the 4th respondent to approve the appointment of G.Prushothaman as Waterman in the petitioner school w.e.f. 01.06.2012 (F.N) with all consequential monetary benefits and arrears of salary as per proposal submitted by the petitioner school dated 25.07.2016

For Petitioner

:Mr.S.Manikandan

For Respondents

:Mr.T.S.Mohammed Mohideen

Additional 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 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 disposed of W.P (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 respondent is directed to consider the proposal submitted by the petitioner on 25.07.2016, 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(AE)

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/True Copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Government of
Tamilnadu, Department of School Education,
Fort.St.Geroge,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.

+1cc to M/s.Manikandan, Advocate SR.No.49836

+1cc to M/s.Special Government Pleader SR.No.50063

W.P. (MD) .No.16690 of 2016

02.09.2016

ssm

SD/CK/22.09.2016/3P/7C