



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.18284 of 2016

and

WMP(MD) No.13171 of 2016

Scott Christian Higher Secondary School,
Nagercoil,
Kanyakumari District,
rep.by its Correspondent,
H.Selvin Kanagarose

... Petitioner

-vs-

1. The Director,
School Education Department,
DPI Complex,
Chennai - 6.
2. The Joint Director,
School Education Department,
(Higher Secondary)
DPI Complex,
Chennai - 6.
3. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Certiorarified Mandamus calling for the records pertaining to the impugned order dated 06.11.2015 passed by the 3rd respondent in Na.Ka.No.6875/A3/2015 and quash the same and direct the respondents to include the post of Vocational Instructor in the staff fixation order of the petitioner school and consequently approve the appointment Vocational Instructor Mr.J.Parvin from the date of his appointment on 08.10.2009 with all monetary benefits.

For Petitioner : Mr.R.Vijayakumar
For Respondents : Mr.M.Alagudevan
Special Government Pleader

O R D E R

This writ petition has been filed to quash the impugned order dated 06.11.2015 passed by the third respondent and consequently direct the respondents to approve the appointment of Vocational Instructor in the petitioner's school from the date of his appointment.



2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who takes notice for the respondents. By consent the writ petition itself is taken up for final disposal at the admission stage.

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3. It is the case of the petitioner that the impugned order has been passed by the third respondent, which ought to have been passed by the first respondent and that, this mistake has occurred in view of the order passed by this Court in WP(MD) No.13420 of 2015, which did not specify the respondent, as to who has to consider the representation of the petitioner and pass orders. The third respondent who passed the impugned order was also a party in WP(MD) No.13420 of 2015. The circumstances leading to the filing of the present writ petition are as under:

The petitioner school has sent a representation on 05.12.2015 to the second respondent who was the competent authority to approve the post of Vocational Instructor in the petitioner school and to approve appointment of one J.Pravin. As there was no response, WP(MD) No.13420 of 2015 was filed and in which, the said direction was issued without specifying the respondent by whom order has to be passed.

4. As the third respondent had passed the orders on the representation and contending that it is only for the first respondent to pass orders, this writ petition has been filed.

5. It is not in dispute that the competent authority is only the first respondent and not the third respondent. Therefore, the order passed by the third respondent is hereby set aside and the first respondent is directed to consider the representation of the petitioner and to pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP(MD) No.13171 of 2016 is closed.

Sd/
Assistant Registrar(A.E)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Director,
School Education Department,
DPI Complex,
Chennai - 6.



2. The Joint Director,
School Education Department,
(Higher Secondary)
DPI Complex,
Chennai - 6.

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

+1cc to M/S.R.Vijayakumar, Advocate in SR.No.55683.

+1cc to Special Government Pleader
Madurai Bench of Madras High Court,
Madurai in SR.No.56131.

W.P (MD) No.18284 of 2016
26.09.2016

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msm/ss3/20.10.16/p2/6c