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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.21013 of 2016

Mangapuram Hindu Higher Secondary School,
Srivilliputhur-626 125,
Virudhunagar District,
By its Secretary,
Mr.T.Rama Subramanian

... Petitioner

vs.

1)The Secretary to the Government,
Department of School Education,
Fort St.George,
Chennai-9.

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

3)The District Educational Officer,
Srivilliputhur,
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for entire records connected with the impugned order passed by the 3rd respondent Mu.Mu.No.2447/A5/2016 dated 05.10.2016 and quash the same and directing the 3rd respondent to approve the appointment of M.V.Ram Kumar as Junior Assistant with effect from 25.07.2016 in the petitioner school namely, Mangapuram Hindu Higher Secondary School Srivilliputhur-626 125, Virudhunagar District with all consequential monetary benefits and salary.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

This Writ of Certiorarified Mandamus has been filed to call for records connected with the impugned order passed by the 3rd respondent in Mu.Mu.No.2447/A5/2016 dated 05.10.2016 to quash the same with the consequential direction to the 3rd respondent to



approve the appointment of M.V.Ram Kumar as Junior Assistant with effect from 25.07.2016 in the petitioner's school namely, Mangapuram Hindu Higher Secondary School, Srivilliputhur-626 125, Virudhunagar District, with all consequential monetary benefits and salary.

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2.The petitioner's school has appointed M.V.Ram Kumar as Junior Assistant in a permanent sanctioned vacancy and when the proposal for approval of such appointment was made by the petitioner school, the same has been returned vide impugned order. Hence, this writ petition.

3.The learned counsel for the petitioner has relied upon a decision of this Court in **W.P(MD)Nos.10233 to 10235 and 10385 of 2016, dated 22.06.2016**, whereunder, the scope of power and the necessity of approval has been dealt with in paragraph 7 of the order. In the said decision, a Division Bench judgment of this Court in **P.Ravichandran vs. State of Tamil Nadu and others**, reported in **(2013) 7 MLJ 641**, has been considered, whereunder, in paragraph 20, it has been held that under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, it is not necessary to seek prior permission to fill up any vacant post. It is relevant to extract paragraph 20 of the judgment in P.Ravichandran's case which reads as under:-

'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.

<https://hcservices.ecourts.gov.in/hcservices/>

(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.''

4. Under such circumstances, the impugned order is set aside and the 3rd respondent is directed to consider the proposal of the petitioner's school, in the light of the order made in W.P(MD) Nos.10233 to 10235 and 10385 of 2016, dated 22.06.2016, and to pass order of approval, within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub Assistant Registrar

nbi

To

1) The Secretary to the Government,
Department of School Education,
Fort St. George,
Chennai-9.

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

3) The District Educational Officer,
Srivilliputhur,
Virudhunagar District.

+1cc to Mr.K.K.Kannan Advocate Sr.No. 65743

+1cc to Spl.Government Pleader Sr.No. 66614

JAM/22.11.16/CK/3p-6c

W.P(MD)No.21013 of 2016

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