

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.7095 of 2017 & W.M.P. No.7702 of 2017

Joice Nirmala

Petitioner

vs.

- 1 The Government of Tamil Nadu
represented by its Secretary to Government
Education Department
Fort St. George
Chennai 600 009
 - 2 The Director of School Education
College Road
Chennai 600 006
 - 3 The District Educational Officer
Thiruvallur
Thiruvallur District
 - 4 The Correspondent
CSI High School
Ikkadu
Thiruvallur District
- Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the third respondent to approve the petitioner's appointment as Office Assistant from the date of appointment i.e., 01.08.2012 with salary and other benefits.

For petitioner Ms. P. Mahalakshmi

For RR 1 to 3 Mr. V. Anandhamurthy
Additional Government Pleader

ORDER

Mr. V. Anandhamoorthy, learned Additional Government Pleader, accepts notice for the respondents 1 to 3.

2 This writ petition has been preferred seeking a writ of mandamus directing the third respondent to approve the petitioner's appointment as Office Assistant from the date of her appointment i.e., 01.08.2012, with salary and other benefits.

3 The petitioner's case, in brief, is as under:

3.1 The petitioner was appointed as Office Assistant in a non teaching sanctioned post which arose on account of the promotion given to one Christopher Devakadatcham by the Management as the fourth respondent is a minority school established and being administered by the Church of South India, Chennai Diocese and which is also declared as a Christian religious minority educational agency. The fourth respondent school is a fully recognised, aided and co-education school having standards from VI to X.

3.2 Only after considering the eligibility and qualification of the petitioner, the fourth respondent appointed her and thereafter, sent a proposal on 12.09.2012 to the District Educational Officer, Thiruvallur, the third respondent herein, who also, by proceedings dated 14.12.2014 bearing no.4569/A2/2013, recommended the petitioner's case and also sought opinion from the Director of School Education, Chennai, the second respondent herein, for approving the petitioner's appointment as Office Assistant with effect from 01.08.2012.

3.3 The fourth respondent, being a minority educational institution, need not seek prior approval under Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 from the Education Department, since the post of Office Assistant was already sanctioned. Thinking that the fourth respondent school has not obtained prior permission before filling up the post of Office Assistant by appointing the petitioner, till date, the second respondent has not come forward to grant the order of approval of the petitioner's appointment. Hence, a direction may be given to the third respondent to approve the appointment of the petitioner.

4 Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for respondents 1 to 3.

5 At this juncture, it is felicitous to point out that the issue that falls for the consideration of this Court, viz., whether a minority educational institution is under an obligation to obtain prior permission before making any appointment in a sanctioned post, is no longer res integra, for, while holding sitting at the Madurai Bench, I had an occasion to deal with a batch of writ petitions in B. Arul Ananda Ganesh and another vs. The Secretary to Government, Education Department,

State of Tamil Nadu, St. Fort George, Chennai - 9 and others¹, wherein too, the issue was precisely the same as in the instant case. In the said judgment, following the judgment of a Division Bench of this Court in P. Ravichandran vs. State of Tamil Nadu and others², it was held as under:

"3. A cursory reading of the aforementioned Hon'ble 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 Hon'ble Division Bench of this Court in the aforementioned judgment 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.

4. Therefore, the issues raised in the present writ petitions having been settled by this Court, I have no hesitation to accept the prayer made by the petitioners.

5. In the result, the writ petitions are disposed of with a direction to the respondents to approve the appointment of the petitioners in the fourth respondent school and to sanction grant, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed."

6 Inasmuch as the aforesaid judgment applies in all its fours to the facts of the instant case, this Court is of the considered view that the fourth respondent need not seek prior permission of the educational authorities to fill up the sanctioned post of Office Assistant. Accordingly, the third respondent is directed to consider the proposal sent by the fourth respondent on 12.09.2012, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

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With the above direction, this writ petition stands disposed of. Costs made easy. Connected W.M.P. is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1 The Secretary to Government
Education Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009

2 The Director of School Education
College Road
Chennai 600 006

3 The District Educational Officer
Thiruvallur
Thiruvallur District

+1 cc to M/s.P.Mahalakshmi,advocate,sr.18036.

sai(co)
krd 25/4

W.P. No.7095 of 2017

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