



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2017

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. (MD) .No.19531 of 2014

and

W.M.P. (MD) .Nos.1 and 2 of 2015

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The Congregation of the Immaculate
Heart of Mary Provincialate Sacred,
Sacred Heart Higher Secondary School,
Michaelpatty, rep. by its Correspondent,
Thirukattupalli (Via)
Thanjavur District - 613 104

.. Petitioner

Vs.

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

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

3.The District Educational Officer,
District Educational Office,
Thanjavur, Sivagangai Garden,
Thanjavur, Thanjavur District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for all records relating to the Government Order of the first respondent made in G.O (Ms).No.115, School Education Department, dated 30.05.2007 Clause (3) of Paragraph No.3 therein and the consequent order of the third respondent made in O.Mu.No.5702/A4/2014, dated 03.09.2014 and quash the above orders and direct the third respondent to approve the appointment of M.William Albert as Watchman made in the sanctioned and approved post in the Sacred Heart Higher Secondary School, Michaelpatty from the date of appointment i.e., 01.11.2012 onwards.

For Petitioner : Mr.M.Joseph Thatheus Jerome

For Respondents : Mr.N.S.Karthikeyan

Additional Government Pleader

O R D E R

This Writ petition has been filed for issuing Writ of Mandamus, calling for the records relating to the Government Order of the first respondent made in G.O (Ms).No.115,



School Education Department, dated 30.05.2007 Clause (3) of Paragraph No.3 therein and the consequent order of the third respondent made in O.Mu.No.5702/A4/2014, dated 03.09.2014 and quash the above orders and also direct the third respondent to approve the appointment of one M.William Albert as Watchman in the petitioner / school from the date of appointment i.e., 01.11.2012 onwards.

2.Heard Mr.M.Joseph Thatheus Jerome, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondents.

3.The brief facts that are necessary for the disposal of the above Writ petition is as follows:

The petitioner / school is a Government aided and recognised religious minority institution. The petitioner / school was allotted a sanctioned and approved post of Watchman vide the proceedings dated 26.03.1983 of the second respondent. Due to the retirement of an incumbent, the petitioner / school appointed one M.William Albert in the said post on 01.11.2012. When the proposal was sent for approval of the said post, the same was returned without approval on the ground that G.O(Ms).No.115, School Education (D2) Department, dated 30.05.2007 has to be followed. While filling up the posts namely, Watchman, Sweeper and Sanitary Workers, Clause (3) of Paragraph No.3 of G.O.(Ms). No.115, School Education (D2) Department, dated 30.05.2007 binds the institutions including aided institutions. As per this Clause, the said posts shall be filled up on their own funds through out-sourcing.

4.The learned counsel for the petitioner has relied upon a judgment of the Hon'ble Division Bench of this Court in W.A.Nos.487 to 492 of 2014, wherein, the Division Bench by order dated 02.02.2016 has dismissed the Writ Appeals, upholding the order dated 17.09.2012 passed by the learned Single Judge quashing G.O.(Ms).No.115, Education (D2) Department, dated 30.05.2007, and directing the official respondents to approve the posts namely, Junior Assistant, Waterman, Office Assistant, Scavenger.

5.Following the judgment of the Division Bench referred to above, this Writ petition is allowed and Clause (3) of Paragraph No.3 of G.O.(Ms).No.115, School Education (D2) Department, dated 30.05.2007 and the consequential order dated 03.09.2014 passed by the 3rd respondent in O.Mu.5702/A4/2014 are quashed. The third respondent is directed to approve the appointment of the said M.William Albert as Watchman in the petitioner / school with effect from 01.11.2012 and appropriate orders should be passed of four weeks from the date of receipt of a copy of this order.



6. Accordingly, the above Writ Petition is disposed of. Consequently the connected miscellaneous petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS II)

/True Copy/

Sub Assistant Registrar

To

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

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

3. The District Educational Officer,
District Educational Office,
Thanjavur, Sivagangai Garden,
Thanjavur, Thanjavur District.

+1cc to M/S. Joseph Thatheus Jerome, Advocate, SR.52729

+1cc to M/S. Special Government Pleader, SR.52434

W.P. (MD) .No.19531 of 2014
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KM/SM

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