



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.06.2017

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD).Nos.10561 and 10566 of 2017
and
W.M.P(MD)Nos.8040 and 8045 of 2017

The Secretary,
The Ramaseshier Higher Secondary School,
Pattamadai,
Tirunelveli District. ... Petitioner in both petitions

Vs.

1. The Secretary to Government,
School Education Department,
State of Tamil Nadu,
Secretariat, Fort St, George,
Chennai.
2. The Director of School Education,
College Road, Chennai-6.
3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.
4. The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli. ... Respondents in both petitions

PRAYER in W.P.(MD).Nos.10561 and 10566 of 2017: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned order passed by the 4th respondent in Na.Ka.Nos.1289/A4/2017 and 1290/A4/2017, dated 16.05.2017 and to quash the same as illegal and direct the respondents to approve the appointment of M.Padmanabhan and V.Nagaraj Krishnan as Record Clerk and Junior Assistant respectively, as on 20.02.2017 and pay all monetary benefits to them.

For Petitioner

: Mr.K.R.Laxman
in both petitions

For Respondents

: Mr.N.S.Karthikeyan
Additional Government Pleader
in both petitions

**COMMON ORDER**

The petitioner in these writ petitions is a Private School getting aid from Government. As against sanctioned post, the petitioner appointed non-teaching staffs. However, when the petitioner sought for approval for the appointment, the 4th respondent rejected the proposal by the impugned orders challenged in this writ petition on the ground that the prior approval was obtained to fill up the post.

2. The crucial fact whether the appointment was against sanctioned post or not was directed to be verified by the learned Government Pleader and the learned Government Pleader after getting instructions, has conceded the factual position that the persons to whom the approval is sought for are non-teaching staffs, who were appointed as against the sanctioned post. In these two cases the appointments were made in private schools getting aid from the Government.

3. The question whether prior approval is required or not before appointing a non-teaching staff in a private aided institution has already been decided in favour of the petitioner holding that no prior permission is required. The attempt of the Government by restricting or preventing the private aided institution from making appointment as against sanctioned post was the subject matter of challenge in several writ petitions and this Court has consistently allowed all the writ petitions quashing the order refusing approval or other Government Orders or instructions preventing the private aided schools from making appointment on their own as against sanctioned post.

4. Hence, following the law laid down by this Court in number of Judgments, these Writ petitions are allowed and the impugned orders in Na.Ka.Nos.1289/A4/2017 and 1290/A4/2017, dated 16.05.2017, passed by the fourth respondent in both petitions are set aside. The fourth respondent, namely, the District Educational Officer, Tirunelveli District, in these Writ petitions is directed to accord approval to the appointment of the said M.Padmanabhan and V.Nagaraj Krishnan as Record Clerk and Junior Assistant respectively, in the petitioner's school, which is a private aided institution with effect from the date of joining in service with all monetary and other service benefits 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.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To

1. The Secretary to Government,
School Education Department,
State of Tamil Nadu,
Secretariat, Fort St, George, Chennai.

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

3. The Chief Educational Officer,
Tirunelveli District, Tirunelveli.

4. The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli.

+1cc to M/S.K.R.Laxman, Advocate SR.No. 62926

+1cc to Special Government Pleader, SR.No. 62685

W.P. (MD).Nos.10561 and 10566 of 2017

PJL

JM/SKN RSK/SAR 1/07.07.2017/3P/7C