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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.06.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.10603 of 2017 &

W.M.P No.8089 of 2017

H.Fazil, S/o.S.Hamanulla,  
Record Clerk, Al-Ameen Higher Secondary School,  
K.Pudur, Madurai - 625 007,  
Madurai District.

.. Petitioner

Vs.

1. The State of Tamil Nadu,  
Represented by the Secretary to Government,  
School Education Department, Secretariat, Chennai.
2. The Director of School Education,  
DPI Campus, College Road, Chennai - 600 006.
3. The Chief Educational Officer,  
Madurai, Madurai District.
4. The District Educational Officer,  
Melur(G), Madurai District.
5. The Correspondent,  
Al-Ameen Higher Secondary School,  
K.Pudur, Madurai - 625 007,  
Madurai District.

.. Respondents

**PRAYER:** Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the fourth respondent in his proceedings in Na.Ka.No.8867/A1/2016, dated 01.06.2017 and quash the same and the respondents 1 to 4 to approve the appointment of the petitioner in the post of Record Clerk in the 5<sup>th</sup> respondent school from the date of appointment on 01.11.2016 by passing appropriate orders on the proposal submitted by the 5<sup>th</sup> respondent, dated 15.11.2016, with all consequential attendant benefits including arrears of salary with interest, within a time frame to be fixed this Court.

For Petitioner  
For R-1 to R-4

:Mr.T.Chandrasekaran  
:Mr.N.S.Karthikeyan,  
Additional Government Pleader.

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**ORDER**

This Writ petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the fourth respondent in his proceedings in Na.Ka.No.8867/A1/2016, dated 01.06.2017 and quash the same and the respondents 1 to 4 to approve the appointment of the petitioner in the post of Record Clerk in the 5<sup>th</sup> respondent school from the date of appointment on 01.11.2016 by passing appropriate orders on the proposal submitted by the 5<sup>th</sup> respondent, dated 15.11.2016, with all consequential attendant benefits including arrears of salary with interest, within a time frame to be fixed this Court.

2. Heard, Mr.T.Chandrasekaran, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Additional Government Pleader appearing for the respondents 1 to 4.

3.Mr.N.S.Karthikeyan, learned Additional Government Pleader takes notice for the respondents 1 to 4. By consent, the Writ petition itself is taken up for final disposal.

4. The petitioner in this Writ petition is a private aided school in which a non-teaching staff was appointed as against sanctioned post.

5. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Additional Government Pleader and the learned Additional Government Pleader after getting instructions, has conceded the factual position that the person to whom the approval is sought for is non-teaching staff, who was appointed as against the sanctioned post. In this case, the appointment is made in private school getting aid from the Government.

6. 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. Hence, following the law laid down by this Court in number of Judgments, the respondents 1 to 4 in this Writ petition are directed to accord approval to the appointment of non-teaching staff in the private aided institution with effect from the date of appointment with all monetary and other service benefits within a period of six weeks from the date of receipt of a copy of this order.



7. With the above direction, this Writ petition is disposed of.  
No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

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Sub Assistant Registrar

To

1. The State of Tamil Nadu,  
Represented by the Secretary to Government,  
School Education Department, Secretariat, Chennai.
2. The Director of School Education,  
DPI Campus, College Road, Chennai-600 006.
3. The Chief Educational Officer,  
Madurai, Madurai District.
4. The District Educational Officer,  
Melur(G), Madurai District.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. NO.59376

+1cc to Mr.T.CHANDRASEKARAN Advocate in SR. No.59268

PMU

JS/RSK/SAR.2/15.6.2017/2P-7C

ORDER MADE IN

**W.P. (MD) .No.10603 of 2017 &**

**W.M.P No.8089 of 2017**

**08.06.2017**