



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.06.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.10828 of 2017
and
W.M.P. (MD) No.8250 of 2017

A.Albert Raj,
Sacred Heart Higher Secondary School,
Ponmalaipatti,
Tiruchirapalli - 620 004. ...Petitioner

Vs.

1. The Government of Tamil Nadu
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai-9.
2. The Director of School Education,
DPI Campus,
College Road, Chennai -6.
3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
Tiruchirapalli District.
4. The District Educational Officer,
The Office of the District Educational Officer,
Tiruchirappalli.
- 5.The Correspondent,
Sacred Heart Higher Secondary School,
Ponmalaipatti,
Tiruchirapalli-620 004. ...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 impugned order dated 19.04.2017 in A.Thi.Mu.No.1827/A3/17, on the file of the 4th respondent and quash the same, directing the respondents to accord approval to the appointment of the petitioner Mr.A.Albert Raj, working as Gardener in Sacred Heart Higher Secondary School, Ponmalaipatti, Tiruchirapalli - 620 004, with effect from 01.08.2012, with all monetary and other service benefits.



For Petitioner

: Mr.V.John Kennedy

For R-1 to R-4

: Mr.J.Gunaseelan Muthiah,
Government Advocate.

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O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 19.04.2017, in A.Thi.Mu.No.1827/A3/17, on the file of the 4th respondent and quash the same, directing the respondents to accord approval to the appointment of the petitioner Mr.A.Albert Raj, working as Gardener in Sacred Heart Higher Secondary School, Ponmalaipatti, Tiruchirapalli - 620 004, with effect from 01.08.2012, with all monetary and other service benefits.

2. Heard, Mr.V.John Kennedy, learned counsel appearing for the petitioner and Mr.J.Gunaseelan Muthaiah, learned Government Advocate appearing for the respondents 1 to 4.

3. The petitioner in this Writ petition was appointed as Gardener by the fifth respondent with effect from 01.08.2012. However, the proposal for approval of appointment was submitted on 21.03.2017. The said proposal was returned by the fourth respondent vide impugned proceedings, dated 19.04.2017. This Writ petition is therefore filed challenging the impugned order of the fourth respondent.

4. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Government Advocate and the learned Government Advocate after getting instructions, has conceded the factual position that the petitioner to whom the approval is sought for was appointed as against the sanctioned post. In this case, the appointment is made by the fifth respondent, a private school getting aid from the Government.

5. 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 order refusing approval or other Government Orders or instructions preventing the private aided schools from making appointment on

their own as against sanctioned post.

6. Hence, following the law laid down by this Court in number of Judgments, this Writ petition is allowed and the impugned order in A.Thi.Mu.No.1827/A3/17, dated 19.04.2017, passed by the fourth respondent is set aside. The fourth respondent, namely, the District Educational Officer, Tiruchirapalli District, in this Writ petition is directed to accord approval to the appointment of the petitioner as Gardener in the fifth respondent 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 petition is closed.

Sd/-

Assistant Registrar(Co)

/True copy/

Sub Assistant Registrar

To

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

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

3.The Chief Educational Officer,
The Office of the Chief Educational Officer,
Tiruchirapalli District.

4.The District Educational Officer,
The Office of the District Educational Officer,
Tiruchirappalli.

+1 cc to Mr.V.John kennedy , Advocate in SR.No. 60817
+1 cc to Special Government Pleader in SR.No.60978

pmu

AE/KP/SAR4/10.07.2017/3P/7C

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