



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.10963 of 2017

WEB COPY

P.Gobinathan

...Petitioner

Vs.

1.The District Educational Officer,
Musiri, Trichy District.

2.The Secretary,
Swamy Viveganantha Vidyalayam
Higher Secondary School,
Vairichettipalayam,
Trichy District - 621 012.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings O.Mu.No.2110/A2/2016, dated 13.04.2017, quash the same as illegal and consequently directing the 1st respondent to accord approval for appointment of the petitioner in the post of Office Assistant in the 2nd respondent school with effect from 02.02.2017.

For Petitioner : Mr.B.Saravanan

For R-1 : Mr.C.Selvaraj,
Special Government Pleader.

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings O.Mu.No.2110/A2/2016, dated 13.04.2017, quash the same as illegal and consequently directing the 1st respondent to accord approval for appointment of the petitioner in the post of Office Assistant in the 2nd respondent school with effect from 02.02.2017.

2. Heard, Mr.B.Saravanan, learned counsel appearing for the petitioner and Mr.C.Selvaraj, learned Special Government Pleader appearing for the first respondent.



3. Mr.C.Selvaraj, learned Special Government Pleader takes notice for the first respondent. By consent, the Writ petition itself is taken up for final disposal.

4. The petitioner in this Writ petition was appointed as Office Assistant by the second respondent.

5. The crucial fact whether the appointment was against the sanctioned post was directed to be verified by the learned Special Government Pleader and the learned Special Government Pleader 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 second respondent, a 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.

7. Hence, following the law laid down by this Court in number of Judgments, this Writ petition is allowed and the impugned order in O.Mu.No.2110/A2/2016, dated 13.04.2017, passed by the first respondent is set aside. The first respondent, namely, the District Educational Officer, Trichy District, in this Writ petition is directed to accord approval to the appointment of the petitioner as Office Assistant in the second 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.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

The District Educational Officer, Musiri, Trichy District.

+One cc to Mr.B.Saravanan, Advocate, SR.No.60918

pmu

RL/3C/2P/SKN/RSK/SAR1/28/6/2017