



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2017

CORAM:

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

W.P. (MD) .No.12094 of 2017

and

WMP (MD) No.9326 of 2017

The Secretary,  
Raja's Higher Secondary School,  
Sivagangai,  
Sivagangai District.

... Petitioner

***Vs.***

1. The Director of School Education,  
(Higher Secondary School)  
School Education, Chennai.
2. The Joint Director of School Education,  
(Higher Secondary)  
School Education, Chennai.
3. The Chief Educational Officer,  
Sivagangai District,  
Sivagangai.
4. The District Educational Officer,  
Sivagangai District,  
Sivagangai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 4th respondent in O.Mu.No.1802/AA2/2014 dated 10.06.2014 and the consequential impugned order in Na.ka.No.1133/A2/2015 dated 16.11.2015 served on 22.11.2015 quash the same and consequently direct the 4<sup>th</sup> respondent to approve the appointment of S.Balaji as regular Library Assistant under non-teaching category with effect from 29.01.2014 as per the proposal of the petitioner in Na.Ka.No.34/2014 dated 10.04.2014 sent to the fourth respondent with all monetary and service benefits payable to the regular post of Library Assistant.

<https://hcservices.ecourts.gov.in/hcservices/>  
For Petitioner  
For Respondents

: Mr.K.K.Senthilvelan  
: Mr.C.Selvaraj  
Special Government Pleader

**ORDER**

This Writ Petition has been filed by the petitioner for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4<sup>th</sup> respondent in O.Mu.No.1802/AA2/2014 dated 10.06.2014 and the consequential impugned order in Na.ka.No.1133/A2/2015 dated 16.11.2015 and quash the same and further direct the 4<sup>th</sup> respondent herein to approve forthwith the appointment of one S.Balaji as regular Library Assistant in the petitioner school from 29.01.2014 onwards with all monetary and service benefits payable to the regular post of Library Assistant.

2.Heard Mr.K.K.Senthilvelan learned counsel appearing for the petitioner and Mr.C.Selvaraj, learned Special Government Pleader appearing for the respondents.

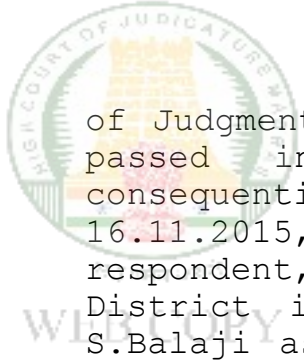
3.The petitioner is the private Government Aided school governed under the provisions of the Tamil Nadu Recognised Private School (Regulation) Act, 1973. In the petitioner school, one post of Library Assistant fell vacant from 05.08.2011 in view of the promotion of the then incumbent viz., V.Danalakshmi. Hence, the petitioner school appointed one S.Balaji in the said post. When the petitioner submitted a proposal for getting approval from the fourth respondent, the fourth respondent returned the proposal on the ground that before filling up the post, prior permission should be obtained from the first respondent. Challenging the same, the present Writ Petition has been filed.

4.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 appointment of the said incumbent viz., S.Balaji was made only as against the sanctioned post. In this case, the appointment is made by the petitioner school which is 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 the petitioner school 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.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Hence, following the law laid down by this Court in number



of Judgments, this Writ petition is allowed and the impugned order passed in O.Mu.No.1802/AA2/2014 dated 10.06.2014 and the consequential impugned order in Na.ka.No.1133/A2/2015 dated 16.11.2015, by the fourth respondent are set aside. The fourth respondent, namely, the District Educational Officer, Sivagangai District is directed to accord approval to the appointment of S.Balaji as Library Assistant in the petitioner 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, WMP(MD)No.9326 of 2017 is closed.

Sd/-  
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

**To**

1. The Director of School Education,  
(Higher Secondary School)  
School Education, Chennai.
2. The Joint Director of School Education,  
(Higher Secondary)  
School Education, Chennai.
3. The Chief Educational Officer,  
Sivagangai District,  
Sivagangai.
4. The District Educational Officer,  
Sivagangai District,  
Sivagangai.

+ 1 CC TO Mr.L.L.SENTHILVELAN, ADVOCATE IN SR No. 62950  
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 63071

MJ  
TE/KKR/SAR-IV : 10/07/2017 : 3P/7C

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