



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

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W.P. (MD) Nos.14909, 14910 and 14911 of 2017

and

W.M.P. (MD) Nos.11747, 11748 and 11749 of 2017

The Correspondent,

St.Philomena's Girl Higher

Secondary School,

Melapudur, Tiruchirappalli-620 001.

...Petitioner in

W.P. (MD) Nos.14909 to 14911 of 2017

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 006.

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

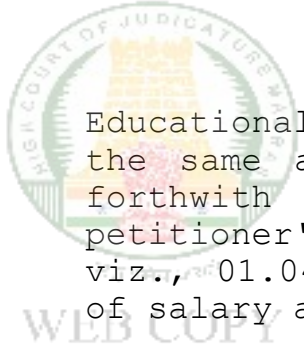
4.The District Educational Officer,
Tiruchirappalli District,
Tiruchirappalli.

...Respondents in

W.P. (MD) Nos.14909 to 14911 of 2017

PRAYER in W.P. (MD) No.14909 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating the impugned proceeding issued by the 4th respondent District Educational Officer in O.Mu.No.2916/Aa4/2017 dated 00.05.2017, quash the same and further to direct the fourth respondent to approve forthwith the appointment of S.Justin Mary as Library Attender in the petitioner's School with effect from the date of his appointment viz., 03.10.2016 with all attendant benefits including the arrears of salary and allowances.

PRAYER in W.P. (MD) No.14910 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating the impugned proceeding issued by the fourth respondent District



Educational Officer in O.Mu.No.2917/Aa4/2017 dated 00.05.2017, quash the same and further to direct the fourth respondent to approve forthwith the appointment of M.Pitchaiammal as Sweeper in the petitioner's School with effect from the date of her appointment viz., 01.04.2016 with all attendant benefits including the arrears of salary and allowances.

PRAYER in W.P. (MD) No.14911 of 2017: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating the impugned proceeding issued by the fourth respondent District Educational Officer in O.Mu.No.2918/Aa4/2017 dated 00.05.2017, quash the same and further to direct the fourth respondent to approve forthwith the appointment of L.Stella as Library Clerk in the petitioner's School with effect from the date of her appointment viz., 03.10.2016 with all attendant benefits including the arrears of salary and allowances.

For Petitioner in
all W.P.s : Ms.Amala Irudhaya Mary

For Respondents in
all W.P.s : Mr.D.Muruganantham,
Additional Government Pleader

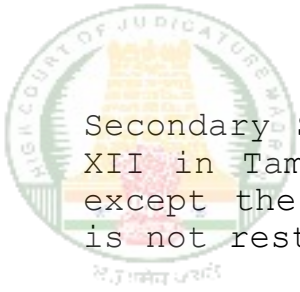
COMMON ORDER

By the consent of both sides, these writ petitions themselves are taken up for final disposal.

2.These Writ petitions have been filed by the Correspondent, St.Philomena's Girl Higher Secondary School, Melapudur, Tiruchirappalli, questioning the correctness of the impugned order dated 16.05.2017, refusing the request of the petitioner to grant approval for the appointment of Library Attender, Library Clerk and Sweeper.

3.The learned counsel appearing for the petitioner would submit that the petitioner School is a recognized and aided Minority Educational Institution owned and administrated by a registered Society namely, "The Society of the Congregation of Mother of Sorrows, Servants of Mary", Tiruchirapalli. The Society has also been recognized as a Minority Society by the order of this Court in W.P.No.630 of 1975, dated 24.09.1976, and the School run by the said Society has been recognized as a Minority Educational Institution vide proceedings of the Director of School Education in R.C.No.24541-93/76 dated 20.11.1976.

<https://hcservices.ecourts.gov.in/hcservices/> The petitioner School was established as a Primary School in the year 1877 and subsequently, it was upgraded as High School in the year 1923. Later in the year 1978, it was upgraded as Higher



Secondary School and is now offering education from standards I to XII in Tamil medium and also providing education free of charges, except the minimum fee prescribed by the Government. The admission is not restricted to any caste or creed or religion.

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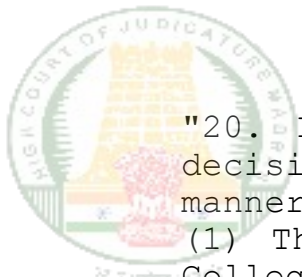
5. The learned counsel appearing for the petitioner, drew the notice of this Court to the proceedings dated 20.07.2016, issued by the third respondent/Chief Educational Officer, Tiruchirappalli and submitted that the staff fixation in the year 2016-17, clearly shows that the School was already sanctioned with one Library Clerk, one Sweeper, one Library Attender.

6. A perusal the records would shows that on the date of issuance of the staff fixation order for the academic year 2016-17, it has been clearly mentioned that one post of Library Clerk, Sweeper and Library Attender are lying vacant. In the post of Library Clerk, one M/s.L.Stella was appointed on 03.10.2016, another post of Library Attender, one M/s.S.Justin Mary was appointed on 03.10.2016 and in the post of Sweeper, one M/s.M.Pitchaiammal was appointed on 01.04.2016 in the petitioner's School. After making all these appointments, a proposal was sent to the District Educational Officer, Trichy, on 12.05.2017 requesting him to grant approval for all these appointments. Surprisingly, the District Educational Officer, Trichy, vide impugned proceedings dated 16.05.2017, raising certain relevant queries, returned the proposal. As a result, the Library Clerk, Library Assistant and Sweeper are not able to get their salary from the date of their appointment.

7. This Court, in a batch of Writ Petitions in W.P.(MD) Nos.14115 to 14119 of 2016 in the case of **The Correspondent, De Britto Higher Secondary School, Sivagangai vs The State of Tamil Nadu and others**, has clearly held that there is no requirement under the provisions of Tamil Nadu Regulations Act, to seek prior permission to fill up any vacant post in an aided school, which has already been sanctioned for the academic year by the competent authority under the relevant Rule. The second respondent ought not to have been refused the request of the petitioner to grant approval of appointment to the post of Library Clerk, Library Assistant and Sweeper.

8. Heard, the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

9. With regard to the legal position in respect of Minority Institution, before filling up any sanctioned post which fell vacant, the Division Bench of this Court in the case of **P. Ravichandran v. State of Tamil Nadu and others** reported in (2013) 7 MLJ 641, has settled the issued as follows:



"20. In the light of the above findings as well as the decisions, we conclude this Judgment in the following manner:

(1) There is no requirement under the Tamil Nadu Private Colleges (Regulation) Act, 1976 and Tamil Nadu Private Colleges (Regulation) Rules, 1976, to seek prior permission to fill up any vacant post in an aided college, which has already been sanctioned for the academic year by the Director of Collegiate Education under Rule 11(1) of the Rules.

(2) If the appointment made by the College Committee in the sanctioned vacant post is in violation of any of the statutory provision, it is open to the Regional Joint Director of Collegiate Education to deny grant-in-aid to the said person appointed in the vacant post.

(3) The teaching staff appointed must be fully qualified, whose qualification is approved by the University to which the college is affiliated. Insofar as the non-teaching staff are concerned, the candidate must possess the qualification prescribed by the Government.

(4) The College Committee while filling up the vacant post, should follow the procedures stated in Rule 11(1A) to 11(4) (ii).

(5) If there is no rival candidate for any post, the appointment is bound to be approved for the purpose of payment of pay and allowances, by the Regional Joint Director of Collegiate Education.

The writ appeal is disposed of with the above directions. No costs."

10. In the light of the above, the issue raised in the present Writ petitions, is no more *res integra*, the petitioner School have appointed the Library Assistant, Library Clerk and Sweeper in a sanctioned post, as per the staff fixation order passed by the third respondent on 20.07.2016. The impugned order is set aside and the respondents are directed to grant approval for appointment within a period of four weeks from the date of receipt of copy of this Order.

11. With the above directions, these Writ petitions are allowed. It is needless to say that the respondents are directed to disburse all the monetary benefits from the date of their appointments. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/



To

1.The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of School Education,
College Road, Chennai - 600 006.

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

4.The District Educational Officer,
Tiruchirappalli District, Tiruchirappalli.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.72906

+1cc to ISAAC CHAMBERS in SR. No. 72850

CMR/MRN

JS/MR.KKR/SAR.1/13.09.2017/5P-7C

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