



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE T.RAJAW.P.(MD)No.16313 of 2017

The Correspondent
Masood Thaika Higher Secondary School
Kadayanallur
Tirunelveli District

... Petitioner

Vs.

1.The Secretary to Government
School Education Department
Fort St. George, Chennai.

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

3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District

4.The District Educational Officer,
Tenkasi, Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 4th respondent in his proceedings in O.Mu.No.2530/A1/2017 dated 10.08.2017 and quash the same and direct the respondents 1 to 4 herein to approve the appointment of the said S.U.Masood as night Watchman in the petitioner's school from the date of appointment namely, 01.06.2017 with all the consequential attendant benefits including arrears of salary, within a time frame fixed by this Court.

For Petitioner	: Mr.T.Pon Ramkumar
For Respondents	: Mr.D.Muruganandham Additional Government Pleader

COMMON ORDER

By consent of both sides, these writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.



3. The writ petition is directed against the impugned order dated 10.08.2017 passed by the District Educational Officer, Tenkasi, the fourth respondent herein refusing to accord approval of appointment of Night Watchman for the petitioner's School.

4. The learned counsel for the petitioner would submit that the petitioner School is a minority one and a post of Night Watchman fell vacant in the petitioner's School due to the retirement of one Mr. Paramasivam. For the said vacancy, the petitioner School selected one Mr. S.U. Masood and appointed him in the said post and proposal has been sent to the 4th respondent. But the fourth respondent refused to approve the said appointment vide order dated 10.08.2017 stating that there was a ban for the said appointment and hence, the same has not been approved and hence, the petitioner is before this Court with this writ petition.

5. The learned counsel for the petitioner submitted that with regard to the filling up of the sanctioned post of non teaching staff, this Court has settled the issue in a reported judgment *Deva Asir v. Secretary to Government, School Education Department and others* reported in 2016 (3) LLJ 49 (Mad) holding that if any vacancies arose in any sanctioned post in minority educational institutions, no prior permission is necessary as per Rule 15(4) of the Tamilnadu Private Schools (Regulation) Rules. The petitioner School being a minority Institution is also entitled to fill up the post of non teaching staff against the sanctioned post.

6. The issue is no longer res integra. While considering similar issue, I have also held in *V. Manoj Kumar v. The Government of Tamilnadu*, [CDJ 2017 MHC 5041], as follows:

"4. In the result,

(i) All the writ petitions are allowed.

(ii) The impugned orders are set aside.

(iii). The respective respondents are directed to approve the appointments of non-teaching staff in the Private Aided Schools in these cases and to sanction grant, within a period of four weeks from the date of receipt of a copy of this order.

5. Thus, the issue is well settled now that any school, either minority/private/aided or unaided, is entitled to fill up the vacancy arising on account of promotion, retirement, removal, dismissal etc., against a sanctioned post already approved by the school authorities, without even obtaining prior permission from the Government. In the case on hand, admittedly, the writ petitioners have been appointed against the vacancies relating to sanctioned posts as Non teaching Staff in various cadres

and hence, by following the above cited case laws, this court hereby directs the respective respondents to



approve the appointments of the Non teaching staff by the Private Aided Schools and to sanction the grant within a period of four weeks from the date of receipt of a copy of this order."

7. In view of the above, the writ petition stands allowed and the impugned order is quashed and the 1st respondent is directed to approve the appointment of the petitioner from the date of appointment, namely, 11.04.2016 and to sanction the grant within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government
School Education Department
Fort St. George, Chennai.

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

3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District

4.The District Educational Officer,
Tenkasi, Tirunelveli District

+One cc to The Special Government Pleader, SR.No.78476
+One cc to Mr.T.Pon Ramkumar, Advocate, SR.No.78463

RR

RL/7C/3P/SKN/RSK/SAR2/31/10/2017

W.P. (MD) No.16313 of 2017