



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.6587 of 2017

and

W.M.P.(MD) No.5177 of 2017

The Correspondent,
St. Joseph's Girls Higher Secondary School,
Cruzpuram - 628 001,
Tuticorin District.

... Petitioner

Vs.

1. The Director of School Education,
College Road, Chennai - 600 009.

2. The Chief Educational Officer,
Tuticorin, Tuticorin District.

3. The District Educational Officer,
Tuticorin, Tuticorin District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of a Writ of Mandamus, directing the 3rd respondent District Educational Officer herein to approve the appointment of C.Ranjith Prakash as Record Clerk in the petitioner school with effect from the date of his appointment viz., 01.06.2016, with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.T.Cibi Chakraborty

For Respondents : Mr.C.Selvaraj,
Special Government Pleader.

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Mandamus, directing the 3rd respondent District Educational Officer herein to approve the appointment of C.Ranjith Prakash as Record Clerk in the petitioner school with effect from the date of his appointment viz., 01.06.2016, with all attendant benefits including the arrears of salary and allowance.



2. Heard, Mr.T.Cibi Chakraborty, learned counsel appearing for the petitioner and Mr.C.Selvaraj, learned Special Government Pleader appearing for the respondents.

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3. The petitioner school is a private minority institution. In the petitioner school, one post of Record Clerk fell vacant on 03.07.2012, due to the transfer of one previous incumbent Sagayamalar. In that vacancy, one A.Thiyobalt Mary was appointed and before the approval of her appointment, she was transferred. Due to the transfer of the said previous incumbent, the petitioner school appointed one C.Ranjith Prakash as Record Clerk with effect from 01.06.2016. The petitioner school submitted proposals to the third respondent on 05.10.2016 for approval. However, the said proposal is pending so far. According the learned counsel for the petitioner, no prior approval is required in the case of appointment of non-teaching staff in the private aided institution.

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 one C.Ranjith Prakash to whom the approval is sought for, was appointed 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 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.

6. Hence, following the law laid down by this Court in number of Judgments, the third respondent, namely, the District Educational Officer, Tuticorin District, in this Writ petition is directed to accord approval to the appointment of C.Ranjith Prakash as Record Clerk 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, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl side)

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/True copy/

Sub Assistant Registrar

To

1. The Director of School Education,
College Road, Chennai - 600 009.
2. The Chief Educational Officer,
Tuticorin, Tuticorin District.
3. The District Educational Officer,
Tuticorin, Tuticorin District.

+1 cc to Mr.T.Cibi Chakraborty , Advocate in SR.No. 61020

+1 cc to Special Government Pleader in SR.No.61201

pmu

AE/JC/SAR1/05.07.2017/3P/6C

ORDER MADE IN
W.P. (MD) No.6587 of 2017
and
W.M.P. (MD) No.5177 of 2017
19.06.2017