



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :29.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) Nos.7735, 8926, 8927, 8928, 11284, 4849, 2249 and
13065 of 2016

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and

W.M.P (MD) Nos.6408, 6409, 7111, 7112, 7113, 7114, 7115, 8634, 8635,
4360, 1967 and 1968 of 2016

S.RAJA	... Petitioner in WP(MD). 7735/2016
D.PONRAJ	... Petitioner in WP(MD). 8926/2016
P.SHEEBA PONROSE	... Petitioner in WP(MD). 8927/2016
G.YESURAJAN	... Petitioner in WP(MD). 8928/2016
MANO	... Petitioner in WP(MD). 11284/2016
PETCHAMMAL	... Petitioner in WP(MD). 4849/2016
F.ROBERT BELLAMIN	... Petitioner in WP(MD). 2249/2016

T.N.PUDUKUDI,

HINDU NADAR URAVINMURAI COMMITTEE HR.SECONDARY SCHOOL,

REP. BY ITS SECRETARY, T.BALACHANDRAN,

T.N.PUDUKUDI, PULLIANKUDI,

TIRUNELVELI DISTRICT ... Petitioner in WP(MD). 13065/2016

- Vs. -

1 THE STATE OF TAMIL NADU,

REP. BY ITS SECRETARY,

DEPARTMENT OF SCHOOL EDUCATION, CHENNAI.

2 THE JOINT DIRECTOR OF SCHOOL EDUCATION,

COLLEGE ROAD, CHENNAI-6.

3 THE DISTRICT EDUCATIONAL OFFICER, MADURAI DISTRICT,
MADURAI.

4 THE SECRETARY, SAVEETHABAI (KOVAI) HR. SEC. SCHOOL,

THIRUNAGAR, MADURAI-6. ... Respondents in WP(MD). 7735/ 2016

1 THE GOVERNMENT OF TAMILNADU,

REP. BY SECRETARY TO GOVERNMENT,

SCHOOL EDUCATION DEPARTMENT, SECRETARIAT, CHENNAI-600 009.

2 THE DIRECTOR OF SCHOOL EDUCATION,

DPI, CAMPUS, COLLEGE ROAD, CHENNAI - 600 006.

3 THE CHIEF EDUCATIONAL OFFICER, MADURAI, MADURAI DISTRICT.

4 THE DISTRICT EDUCATIONAL OFFICER, DINDIGUL DISTRICT, DINDIGUL

5 THE CORRESPONDENT, DUDLEY HIGHER SECONDARY SCHOOL,

DINDIGUL DISTRICT. ... Respondents in WP(MD). 8926/ 2016



1 THE GOVERNMENT OF TAMILNADU,
REP. BY SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI-600 009.

2 THE DIRECTOR OF SCHOOL EDUCATION,
DPI, CAMPUS, COLLEGE ROAD, CHENNAI-600 006.

3 THE CHIEF EDUCATIONAL OFFICER, MADURAI, MADURAI DISTRICT.

4 THE DISTRICT EDUCATIONAL OFFICER, MELUR, MADURAI (NORTH).

5 THE CORRESPONDENT, O.C.P.M. GIRLS HR. SEC.SCHOOL,
MADURAI ... Respondents in WP(MD). 8927/ 2016

1 THE GOVERNMENT OF TAMILNADU,
REP. BY SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI-600 009.

2 THE DIRECTOR OF SCHOOL EDUCATION,
DPI, CAMPUS, COLLEGE ROAD, CHENNAI-600 006.

3 THE CHIEF EDUCATIONAL OFFICER, MADURAI, MADURAI DISTRICT.

4 THE DISTRICT EDUCATIONAL OFFICER, DINDIGUL DISTRICT, DINDIGUL.

5 THE CORRESPONDENT, C.S.I.HIGH SCHOOL, BATHALGUNDU,
DINDIGUL DISTRICT. ... Respondents in WP(MD). 8928/ 2016

1 THE SECRETARY, DEPARTMENT OF SCHOOL EDUCATION,
STATE OF TAMILNADU, SECRETARIAT, FORT.ST.GEORGE, CHENNAI-9

2 THE DIRECTOR OF SCHOOL EDUCATION, DPI CAMPUS, CHENNAI-6

3 THE DISTRICT EDUCATIONAL OFFICER, THOOTHUKUDI.

4 THE CORRESPONDENT, T.D.T.A. P.S.PERIYANAYAGAM
HIGHER SECONDARY SCHOOL, PUDUKOTTAI-628 103,
THOOTHUKUDI DISTRICT. ... Respondents in WP(MD). 11284/ 2016

1 THE SECRETARY, DEPARTMENT OF SCHOOL EDUCATION,
STATE OF TAMIL NADU, SECRETARIAT, FORT ST. GEORGE, CHENNAI-9.

2 THE DIRECTOR OF SCHOOL EDUCATION, DPI CAMPUS, CHENNAI-6.

3 THE DISTRICT EDUCATIONAL OFFICER, THOOTHUKUDI.

4 THE CORRESPONDENT, ST. JOHN'S GIRLS HIGHER SECONDARY SCHOOL,
NAZARETH-628 617.

THOOTHUKUDI DISTRICT. ... Respondents in WP(MD). 4849/ 2016

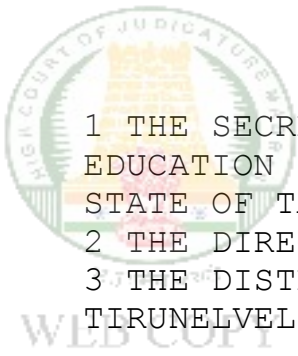
1 THE STATE TAMIL NADU,
REP.BY ITS SECRETARY TO GOVERNMENT,
EDUCATION DEPARTMENT, CHENNAI-9.

2 THE DIRECTOR OF SCHOOL EDUCATION, D.P.I.BUILDINGS,
COLLEGE ROAD, CHENNAI-6.

3 THE CHIEF EDUCATIONAL OFFICER, MADURAI.

4 THE DISTRICT EDUCATIONAL OFFICER, MADURAI.

5 THE CORRESPONDENT, ST.CHARLES HIGHER SECONDARY SCHOOL,
THIRUVALLUR NAGAR, THIRUNAGAR,
MADURAI. ... Respondents in WP(MD). 2249/ 2016



1 THE SECRETARY TO GOVERNMENT,
EDUCATION DEPARTMENT,

STATE OF TAMIL NADU, ST. FORT GEORGE, CHENNAI-9.

2 THE DIRECTOR OF SCHOOL EDUCATION, COLLEGE ROAD, CHENNAI-6.

3 THE DISTRICT EDUCATIONAL OFFICER, TENKASI,

TIRUNELVELI DISTRICT. ... Respondents in WP(MD). 13065/ 2016

Prayer in WP(MD). 7735/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records in 1st impugned order dt.31.07.2014 in proceeding No.Oo.Mu.No.055988/D2/E2/2014 passed by the 2nd respondent and the 2nd impugned order dated 29.03.2016 in proceeding No.Na.Ka.No.1657/Aa2/2016, issued by the 3rd respondent and quash the same and further direct the 3rd respondent / District Educational Officer to approve petitioners appointment as Record Clerk in the 4th respondent school with effect from 03.11.2014 with all attendant benefits including the arrears of salary and allowances within a resonable time as may be fixed by this Hon'ble Court.

Prayer in WP(MD). 8926/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents 1 to 4 to approve the petitioners appointment for the post of office assistant in the 5th respondent school with effect from 08.01.2014 with all consequential benefits.

Prayer in WP(MD). 8927/ 2016 :

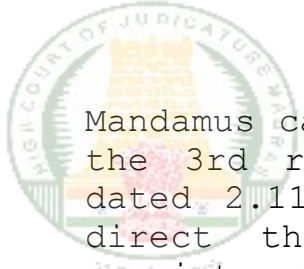
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order in A.Thi.Mu.No.48/A2/2014 dated 02.2014 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 appoved the petitioners appointment for the post of Record Clerk in the 5th respondent school with effect from 01.07.2013 with all consequential benefits.

Prayer in WP(MD). 8928/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in A.Thi.Mu.No.3488/A4/2011 dated .08.2011 passed by the 4th respondent and quash the same and consequently direct the respondents 1 to 4 approved the petitioners appointment for the post of office assistant in the 5th respondent school with effect from 01.07.2011 with all consequential benefits.

[https://hccourts.in/wp\(md\)/](https://hccourts.in/wp(md)/) 11284/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified



Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in O.Mu.No.5928/A3/2015, dated 2.11.2015 and quash the same as illegal and consequently direct the official respondents to approve the petitioners appointment in 4th respondent school as Junior Assistant from the date of joining on 13.8.2014 and to pay all the service and monetary benefits within the stipulated time.

Prayer in WP(MD). 4849/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of certiorarified mandamus calling for the records pertaining to the order passed by the 3rd respondent in his proceedings in O.Mu.No.384/A4/2016, dated 1.2.2016 and quash the same as illegal and consequently direct the respondents to approve the petitioners appointment in 4th respondent school as Sweeper from the date of joining on 1.11.2012 and to pay all the service and monetary benefits.

Prayer in WP(MD). 2249/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus call for the entire records connected with the impugned proceeding of the 4th respondent vide Na.Ka.No.3593/32/2015, dated .7.2015, singed on 2.7.2015, and quash the same and directing respondents to approve the appointment of the petitioner as Office Assistant in the 5th respondent school w.e.f.2.5.2015, with all consequential benefits, in the light of the order passed in W.A. (MD)No.509/2009 dt.21.10.2009 and W.A.No.1012/2009 dt.15.10.2014.

Prayer in WP(MD). 13065/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records in respect of order passed by 3rd respondent in OM.U.No.6063/B3/2015 dated 16.06.2016 and quash the same and consequently direct the 3rd respondent to permit the petitioners school to fill up the post of sweeper fell vacant on 08.10.2006 in accordance with the procedure established under Tamil Nadu Private School Regulation Act

For Petitioner : M/s.C.Dhanaseelan (WP(MD)No.7735/2016)

For Petitioners : M/s.C.Fernandas Rathinaraja
(WP(MD)Nos.8926/2016,
8927/2016 and 8928/2016)

For Petitioners : M/s.T.A.Ebenezer (WP(MD)Nos.11284/2016 and
4849/2016)

<https://hdservices.courts.gov.in/hdservices/> For Petitioners : M/s.T.Cibi Chakraborty (WP(MD)No.2249/2016)

For Petitioner : M/s.S.Chellapandian (WP(MD)No.13065/2016)



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For Respondents : Mr.V.R.Shanmuganathan
(WP (MD) Nos.7735/2016, 8926/2016 and
8927/2016
(R1 to R4))
WP (MD) No.13065/2016 (R1 to R3)
WP (MD) No.11284/2016 (R1 to R3)
WP (MD) No.4849/2016 (R1 to R3)
WP (MD) No.2249/2016 (R1 to R4)
WP (MD) No.8928/2016 (R1 to R4)

For Respondent : No Appearance in
WP (MD) No.7735/2016 - R4
WP (MD) No.8926/2016 - R5
WP (MD) No.8927/2016 - R5
WP (MD) No.8928/2016 - R5
WP (MD) No.11284/2016 - R4
WP (MD) No.4849/2016 - R4
WP (MD) No.2249/2016 - R5

COMMON ORDER

Challenging either the rejection/return of proposals of the respective minority schools, seeking to approve the appointments made by them for the Non Teaching Posts as against the sanctioned vacancies or seeking a direction to the official respondents to grant approval for the appointments made by such minority schools, these writ petitions have been filed. Approval has been rejected on the ground that prior permission should be obtained before filling up any vacancy in a sanctioned Post.

2. With regard to the legal position in respect of minority institutions, whether prior permission should be obtained before filling up any vacancy in a sanctioned Post, the Honourable Division Bench of this Court even three years ago, in P.Ravichandran v. State of Tamil Nadu and others reported in (2013) 7 MLJ 641, has settled the issue. It is relevant to extract paragraph Nos.17 and 20 of the above said judgment:-

17. A Division Bench of Madurai Bench of this Court in W.A(MD) No.462 of 2006, judgment, dated 01.12.2006, considered the scope of Rule 11(1) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 relying upon the earlier order passed on 13.08.2006, and held that for filling up an existing post in a Private Aided College, no prior approval is necessary as any such appointment shall be subsequently approved by the Department, and at that point of time the Department would have an opportunity to consider the availability of such post and rejection of approval on the ground that no prior approval was obtained before appointment, was set aside. Same is the view taken in the following orders of this Court .



- (i) W.P.No.30618 of 2005, order dated 21.09.2005;
- (ii) W.P.No.28396 of 2004, order dated 29.03.2006;
- (iii) W.A.Nos.92 & 93 of 2008, judgment dated 06.01.2010;
- (iv) W.P(MD)No.174 of 2009, order dated 27.04.2010;
- (v) W.A.Nos.140, 811/2006 & 805/2007, judgment dt. 21.10.2010;
- (vi) W.A.No.2858 of 2010, judgment dated 21.03.2011;
- (vii) W.A(MD)Nos.1088 of 2011, judgment dated 19.10.2011;
- (viii) W.A.Nos.2345 of 2011, judgment dated 05.03.2012;
- (ix) Dr.S.Sukumaran v. State of Tamil Nadu, (2012) 5 MLJ 670 rendered by one of us (NPVJ); and
- (x) W.A.No.474 of 2013, judgment dated 03.04.2013.

Thus, the issue regarding seeking prior permission for filling up the vacant post in aided College within the academic year was already settled in series of decisions and all the above said orders are implemented by the respondents 1 and 2. In such circumstances, it is not open to the respondents to again and again contend that only after getting prior permission from the Director of Collegiate Education, vacant sanctioned posts can be filled up by the management.

.....

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 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.

3. A cursory reading of the aforementioned Honourable Division Bench judgment in (2013) 7 MLJ 641, clearly shows that the issue raised in the present Writ Petitions, is no longer res integra, because the Honourable Division Bench of this court in the aforementioned judgment has also made it clear that 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 sanctioned 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.

4. Therefore, the issues raised in the present Writ Petitions having been settled by this Court, I have no hesitation to accept the prayer made by the petitioners.

5. 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.

No costs. Consequently, Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

Sub Assistant Registrar



To

1. THE SECRETARY,
THE STATE OF TAMIL NADU,
DEPARTMENT OF SCHOOL EDUCATION, CHENNAI.

2. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, CHENNAI-600 006.

3. THE DISTRICT EDUCATIONAL OFFICER,
MADURAI DISTRICT, MADURAI.

4. THE DISTRICT EDUCATIONAL OFFICER,
DINDIGUL DISTRICT, DINDIGUL.

5. THE DIRECTOR OF SCHOOL EDUCATION,
DPI, CAMPUS, COLLEGE ROAD, CHENNAI - 6.

6. THE CHIEF EDUCATIONAL OFFICER, MADURAI,
MADURAI DISTRICT.

7. THE DISTRICT EDUCATIONAL OFFICER, MELUR,
MADURAI (NORTH) .

8. THE DISTRICT EDUCATIONAL OFFICER,
THOOTHUKUDI.

9. THE DISTRICT EDUCATIONAL OFFICER,
TENKASI, TIRUNELVELI DISTRICT.

+1cc to M/s.C.Dhanaseelan, Advocate SR.No.47986

+1cc to M/s.S.Chellapandian, Advocate SR.No.48014

+1cc to M/s.T.Cibi Chakraborty, Advocate SR.No.48028

+3cc to M/s.C.Fernandas Rathinaraja, Advocate SR Nos.48032 to
48034

+2cc to M/s.T.A.Ebenezer, Advocate SR.No.47987 and 47988

+1cc to Special Government Pleader SR.No. 48574

W.P (MD) Nos.7735, 8926, 8927, 8928, 11284, 4849,
2249 and 13065 of 2016 and
W.M.P (MD) Nos.6408, 6409, 7111, 7112, 7113, 7114, 7115,
8634, 8635, 4360, 1967 and 1968 of 2016

29.08.2016

ss1

SD/27.09.2016/8P/19C