

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2018

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.6390 to 6393 of 2018

Tagore National High School,  
Rep by its Secretary,  
Mr.D.Vasudevan,  
Mathanur, Vellore District. .... Petitioner in all W.Ps.

Vs.

- 1.The State of Tamil Nadu,  
Rep by its Secretary to Government,  
Educational Department, Chennai-9.
- 2.The Director of School Education,  
D.P.I. Buildings, College Road,  
Chennai-6.
- 3.The Chief Educational Officer,  
Vellore District.
- 4.The District Educational Officer,  
Tirupattur, Vellore District. .... Respondents in all WPs.

Prayer in W.P.No.6390 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3<sup>rd</sup> respondent to approve the appointment of Thiru.V.Gopi as Junior Assistant w.e.f. 28.12.2017 with all consequential monetary benefits, on the basis of proposal submitted by the petitioner school dated 28.12.2017, in the light of the order passed in Deva Asir v. Secretary to Government, Education Department reported in 2016 (III) L.L.J. 49.

Prayer in W.P.No.6391 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3<sup>rd</sup> respondent to approve the appointment of Tmt.K.Ranjani as Record Clerk Assistant w.e.f. 28.12.2017 with all consequential monetary benefits, on the basis of proposal submitted by the petitioner school dated 28.12.2017, in the light of the order passed in Deva Asir v. Secretary to Government, Education Department, reported in 2016 (III) L.L.J. 49.

Prayer in W.P.No.6392 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3<sup>rd</sup> respondent to approve the appointment of Thiru.V.Yoganantham as Office Assistant w.e.f. 28.12.2017 with all consequential monetary benefits, on the basis of proposal submitted by the petitioner school dated 28.12.2017, in the light of the order passed in Deva Asir v. Secretary to Government, Education Department, reported in 2016 (III) L.L.J. 49.

Prayer in W.P.No.6393 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3<sup>rd</sup> respondent to approve the appointment of Thiru.S.Sarathy as Night Watchman w.e.f. 28.12.2017 with all consequential monetary benefits, on the basis of proposal submitted by the petitioner school dated 28.12.2017, in the light of the order passed in Deva Asir v. Secretary to Government, Education Department, reported in 2016 (III) L.L.J. 49.

For Petitioner : Mr.S.N.Ravichandran  
in all W.Ps.

For Respondents : Mrs.P.Rajalakshmi  
in all W.Ps. Additional Govt. Pleader

#### C O M M O N O R D E R

These Writ Petitions are filed seeking mandamus directing the fourth respondent viz., District Educational Officer, Tirupattur, Vellore District to approve the appointment of Thiru.V.Gopi, Tmt.K.Ranjani, Thiru.V.Yoganantham and Thiru.S.Sarathy as Junior Assistant, Record Clerk Assistant, Office Assistant and Night Watchman respectively with effect from 28.12.2017, with all consequential monetary benefits, on the basis of the proposal submitted by the petitioner school dated 28.12.2017, in the light of the order passed in Deva Asir v. Secretary to Government, Education Department, reported in 2016 (III) L.L.J. 49.

2. Mr.S.N.Ravichandran, learned counsel appearing for the petitioner has submitted that the petitioner School is a non-minority educational institution started in the year 1965 as Middle School and upgraded as High School in the year 1978. The petitioner school is also governed by the Tamil Nadu Recognized Private Schools Regulations Act, 1973 and various Government Orders passed from time to time. As on today, 302 students are studying from Classes VI to XII in the petitioner school with 9 teaching staff and 4 full time non-staffing staff and there are 2 teaching posts lying vacant. The petitioner school is also

receiving grant and aid from the Government. The learned counsel appearing for the petitioners has further submitted that in the meanwhile, when vacancies arose for the post of Junior Assistant, Record Clerk, Office Assistant and Night Watchmen, which were sanctioned as per two staff fixation orders dated 19.08.2016 and 22.12.2017 passed by the fourth respondent, all the four persons viz., Thiru.V.Gopi, Tmt.K.Ranjani, Thiru.V.Yoganantham and Thiru.S.Sarathy were appointed by the petitioner school on 28.12.2017 and thereafter, a proposal was also sent on the same day, but till date the fourth respondent has not come forward to pass any order granting approval of appointment.

3. The learned counsel for the petitioners has also submitted that in view of delay in passing the order of approval of appointment, the said four persons are unable to receive their salary and they are also not able to show perfect performance in their duties, which also cause heavily on the students and other teaching staffs. Therefore, direction is sought to approve the appointment of the aforementioned persons in the respective posts on the basis of the proposal submitted by the petitioner school dated 28.12.2017. The learned counsel for the petitioner, in support of his submissions, relied on the decision in *Deva Asir v. Secretary to Government* reported in 2016-III-LLJ49 and the common order dated 22.01.2018 passed in W.P.Nos.34389 to 34391 of 2017.

4. Mrs.P.Rajalakshmi, learned Additional Government Pleader appearing for the respondents after seeing the two staff fixation orders dated 19.08.2016 and 22.12.2017 passed in favour of the petitioner school sanctioning the aforementioned posts, is unable to oppose the prayer sought by the petitioner school.

5. The issue whether prior approval should be obtained by a minority or non-minority institution while filling up of non-teaching staff has been considered by this Court in umpteen number of orders and one such order is dated 17.03.2017 passed in W.P.Nos.29998 of 2014 etc., batch [V.J.Manoj Kumar v. The Government of Tamil Nadu, Rep. by its Secretary, Department of School Education, Chennai and others]. It is relevant to extract para 5 of the said 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 sanctioned post already approved by the school authorities, without even obtaining prior permission from the Government. In the cases on hand, admittedly, the writ petitioners have been appointed against vacancies relating to sanctioned posts as Non-teaching

staff in various cadres and therefore, 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."

6. In the light of well settled legal position, the respondents are directed to take up the proposal sent by the petitioner school dated 28.12.2017 and approve the appointment of Thiru.V.Gopi, Tmt.K.Ranjani, Thiru.V.Yoganantham and Thiru.S.Sarathy as Junior Assistant, Record Clerk Assistant, Office Assistant and Night Watchman respectively with effect from 28.12.2017 and confer them with all consequential monetary benefits, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

7. These Writ Petitions are disposed of accordingly. No costs.

Sd/-  
Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

jvm

1.The Secretary to Government,  
Educational Department, Chennai-9.

2.The Director of School Education,  
D.P.I. Buildings, College Road,  
Chennai-6.

3.The Chief Educational Officer,  
Vellore District.

4.The District Educational Officer,  
Tirupattur, Vellore District.

+4cc to Mr.S.N.RAVICHANDRAN, Advocate, S.R.No. 21909  
+1cc to the Government Pleader, S.R.No. 22373

W.P.Nos.6390 to 6393 of 2018

MP (CO)  
TR(09/04/2018)