

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.7501 of 2018

Sri Kumarakurubara Swamigal Higher
Secondary School,
Rep by its Secretary,
Mr.B.Mohamed Abdul Khader,
Srivaikundam - 628 601,
Tuticorin District.

... Petitioner

Vs

1. The State of 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,
Tuticorin District.
4. The District Educational Officer,
Tuticorin.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus to direct the 2nd respondent to approve the appointment of Selvi.P.Esakkiammal, as Library Clerk w.e.f. 17.07.2017, with all consequential monetary benefits, on the basis of proposal submitted by the petitioner school dated 15.12.2017 and 20.01.2018, in the light of the order passed in Deva Asir v.Secretary to Government Education Department, reported in 2016 (3) LLJ 49.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.C.Munusamy
Special Government Pleader
For (R1 to R4)

O R D E R

The relief sought for in this writ petition is to direct the 2nd respondent to approve the appointment of Selvi.P.Esakkiammal, as Library Clerk w.e.f. 17.07.2017, with all consequential monetary benefits, on the basis of proposal submitted by the petitioner school dated 15.12.2017 and 20.01.2018, in the light of the order passed in Deva Asir v.Secretary to Government Education Department, reported in 2016 (3) LLJ 49.

2.The claim of the writ petitioner is that Selvi P.Esakkiammal, was appointed in a sanctioned post and in spite of that approval of the appointment was not granted.

3.The grievances of the writ petitioner is that Selvi P.Esakkiammal, was appointed in accordance with the Rules and procedures in a sanctioned post and therefore, she is entitled for approval of appointment in accordance with the Act and Rules. The proposals were also submitted by the respective Management seeking approval of appointment.

4.When the matter is taken up for hearing, the learned Government Advocate appearing on behalf of the respondents filed the report submitted by the first respondent and paragraphs 3 and 4 of the report are extracted hereunder:

"3.It is further submitted that the Government of Tamil Nadu has issued Orders in G.O.Ms.No.64, School Education (SE 6 (1) Department, dated 03.04.2018 lifting the ban for according approval to the appointment in the non-teaching posts in Government aided schools. The first respondent in pursuance of the direction of the Hon'ble High Court made in the above said W.P.No.7077 to 7080 of 2018, dated 03.04.2018 has issued detailed circular in the proceedings Rc.No.33112/D1/S4/2013, dated 04.04.2018 reiterating to strictly follow up the conditions laid down in the above said circular, while giving appointment approval of non-teaching posts by the District Educational Officers in Government aided Schools.

4.The copy of the said G.O.Ms.No.64, School Education (SE 6(1) Department dated 03.04.2018 and the proceedings issued by the first respondent in Rc.No.33112/D1/S4/2013, dated 04.04.2018 and annexed herewith for kind perusal of Hon'ble High Court."

5. On a perusal of the above, it is seen that the Government issued G.O.Ms.No.64, School Education Department dated 03.04.2018 and the Director of School Education issued a circular on 04.04.2018, setting out the procedure for grant of approval in accordance with the Act and Rules. Clause 7 of the circular categorically enumerated that the competent authorities if violates the procedures, disciplinary proceedings will be initiated against those officials, who are committing any such violations. Thus, it is made clear that the approval of appointment has to be granted by following the Act and Rules.

6. This being the factum of the case, the case of the writ petitioner is to be considered in the light of the Government Order and the circular issued by the Director of School Education and accordingly, the decisions are to be taken and orders are to be issued, within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1. The 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, Tuticorin District.
4. The District Educational Officer, Tuticorin.

+1cc to Mr.S.N.Ravichandran, Advocate, sr.no.25984

W.P.No7501 of 2018

SKV (CO)

RRK (30/05/18)