



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

AND

THE HON'BLE DR. JUSTICE ANITA SUMANTH

Review Application (MD) No.108 of 2018 in
Writ Appeal (MD) No.748 of 2018
and
C.M.P. (MD) No.8166 of 2018

Pankajam Girls Higher Secondary School
Represented by its Secretary
Bodinayakkanur
Theni District

.. Review Applicant/2nd Respondent

v.

- 1.The State of Tamil Nadu
Represented by the Principal Secretary
School Education Department
Fort St. George
Chennai-600 009
- 2.The Director of School Education
D.P.I. Campus, College Road
Nungambakkam, Chennai - 600 006
3. The Chief Educational Officer
Theni
4. The District Educational Officer
Uthamapalayam, Theni District ...Respondents 1 to 4 / Appellants
- 5.Thangam .. 5th Respondent/1st Respondent

Review Application filed under Section 47 Rule 1 and 2 and
Section 114 of Civil Procedure Code against the order dated
27.07.2018 made in Writ Appeal (MD) No.748 of 2018.

Prayer in WA(MD)No.748 of 2018:

Writ Appeal filed under Clause 15 of the Letter Patent against
the order passed by this Court in WP(MD)No.2920 of 2018 dated

Prayer in WP(MD). 2920/ 2018 :

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 tot he impugned order passed by the 4th respondent in O.Mu.No.6613/A2/2017, dated 29.01.2018, quash the same and direct the respondents to approve the appointment of petitioner as Record Clerk in the 5th respondent school with effect from 06.12.2017 with all attendant monetary benefits.

For Review Applicant : Mr. Godson Swaminath
for M/s. Isaac Chambers

For Respondents : Mr.C.Munusamy
Special Govt. Pleader - for R1 to R4

O R D E R

[Order of the Court was made by M.DURAISWAMY, J]

The 2nd respondent in the Writ Appeal in W.A. (MD) No.748 of 2018 has filed the above Review Application to review the order dated 27.07.2018 made in W.A. (MD) No.748 of 2018.

2. The 5th respondent in the Review Application has filed the Writ Petition in W.P.(MD) No.2920 of 2018 to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 4th respondent dated 29.01.2018, to quash the same and consequently direct the respondents to approve her appointment as Record Clerk in the 5th respondent School [Review Applicant] with effect from 06.12.2017 with all attendant and monetary benefits.

3. The learned Single Judge, by order dated 27.02.2018, allowed the Writ Petition. Aggrieved over the same, the Government [respondents 1 to 4] filed the Writ Appeal in W.A. (MD) No.748 of 2018.

4. This Court, by order dated 27.07.2018, set aside the order passed in W.P.(MD) No.2920 of 2018 and allowed the Writ Appeal. Ultimately, the Writ Petition filed by the 5th respondent was dismissed.

5. It is pertinent to note that the Writ Petitioner, who is the aggrieved person, has not filed the Review Application. Now, the 2nd respondent in the Writ Appeal has filed the Review Application. It is also pertinent to note that the Review Applicant was not represented by counsel either in the Writ Petition or in the Writ Appeal.

6. When the Writ Petition has been dismissed, the aggrieved

person can only be the Writ Petitioner and not the respondent in the Writ Petition. That apart, the Review Applicant was not represented by any counsel at the time of hearing the Writ Appeal. Therefore, the present Review Application filed by the School cannot be entertained for the reason that what transpired between the Court and the learned counsel, who appeared at the time of hearing the matter, may not be known to the Review Applicant.

7. The Hon'ble Supreme Court in the judgment reported in **1996 (6) SCC 755 [M.Poornachandran and another v. State of Tamil Nadu and others]** has held as follows:-

"1. The record of the appeal indicates that Shri Sudarsh Menon was the Advocate-on-Record when the appeal was heard and decided on merits. The Review Petition has been filed by Shri Prabir Chowdhury, who was neither an arguing counsel when the appeal was heard nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the Review Petition as if it is a rehearing of an appeal against our order. He did not confine to the scope of review. It would be not in the interest of the profession to permit such practice. That part, he has not obtained "No Objection Certificate" from the Advocate-on-Record in the appeal, in spite of the fact that Registry had informed him of the requirement for doing so. Filing of the "No Objection Certificate" would be the basis for him to come on record. Otherwise, the Advocate-on-Record is answerable to the Court. The failure to obtain the "No Objection Certificate" from the erstwhile counsel has disentitled him to file the Review Petition. Even otherwise, the Review Petition has no merits. It is an attempt to reargue the matter."

8. For the reasons stated above, we are not inclined to entertain the Review Application, Accordingly, the Review Application is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Secretary

<https://hcservices.schooledu.gov.in/hcservices/> Information Department

Fort St. George

Chennai-600 009



2. The Director of School Education
D.P.I. Campus, College Road
Nungambakkam, Chennai - 600 006

3. The Chief Educational Officer
Theni

4. The District Educational Officer
Uthamapalayam, Theni District

+1cc to M/s.ISAAC CHAMBERS, Advocate, SR.No. 63079

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Writ Appeal (MD) No.748 of 2018
25.04.2019

RJ
KK/SAR/03.06.2019/4P-6C