



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.02.2018
CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 2593 of 2018
and
W.M.P. (MD) Nos. 2793 & 2794 of 2018

C.Senthil Kumar

... Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai - 600 006.

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

3.The District Educational Officer,
Nagercoil,
Kanyakumari District.

4.The Correspondent,
L.M.S.Higher Secondary School,
Jamestown - 629 401,
Kanyakumari District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records relating to the impugned proceedings issued by the third respondent/District Education Officer in Mu.Mu.No.2274 / a3/2017 dated 08.08.2017 and the subsequent proceeding in Na.Ka.No.5767 / a3 / 2017 dated 15.11.2017, quash the same and further direct the third respondent/District Educational Officer to approve forthwith the appointment of petitioner as Physical Education Teacher in the fourth respondent school namely L.M.S.Higher Secondary School, Jamestown w.e.f. the date of his appointment viz.19.08.2015 and disburse grant-in-aid towards the salary and other attendant benefits.

For petitioner : Miss. Amala
for M/s.Isaac Chambers
For respondents : Mr. K.Saravanan
(1 to 3) Government Advocate



O R D E R

Heard the learned Counsel appearing for the petitioner and learned Government Advocate appearing for the respondents.

2. The petitioner was appointed as Physical Education Teacher in the fourth respondent School with effect from 19.08.2015. It is not in dispute that the post in respect of which the appointment was made is a sanctioned one. It is also not in dispute that the petitioner is eligible to be so appointed. While so, the third respondent has returned the proposal on the ground that the School Management has not enclosed the certificate stating that there is no surplus Physical Education Teacher post in any other School coming under the corporate management. It has been held by the Hon'ble Division Bench of this Court in *W.A. No.1292 of 2017 & 461 of 2014*, dated 29.11.2017, that the department cannot reject the proposal on the ground that there is surplus staff strength in the other institutions coming under the same corporate management. This is because the appointment has been made in a sanctioned post. Therefore insistence on such certificate is clearly un-sustainable.

3. In this view of the matter, the order impugned in this writ petition is quashed. The third respondent is directed to approve forthwith the appointment of the petitioner as Physical Education Teacher in the fourth respondent School with effect from 19.08.2015 and disburse the grant in aid and other monetary and other attendant benefits without any delay.

4. This Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Director of School Education, College Road, Chennai - 600 006.
 - 2.The Chief Educational Officer,
Kanyakumari, Kanyakumari District.
 - 3.The District Educational Officer,
Nagercoil, Kanyakumari District.
- +1 cc to M/s.Isaac Chambers, Advocate, SR.No.50296
+1cc to The Special Government Pleader, SR.No.50931
kmi
RL/6C/2P/SV/MMS/SAR2/2/5/2018

ORDER MADE IN
W.P. (MD) .No.2593 of 2018