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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.02.2018
CORAM

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM**

W.A.(MD).Nos.22 and 23 of 2017 and
W.A.(MD).Nos.117, 149, 407 and 548 of 2016

W.A.(MD).No.22 of 2017

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

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

3.THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TUTICORIN DISTRICT,
TUTICORIN.

4.THE ADDITIONAL ASSISTANT ELEMENTARY
EDUCATIONAL OFFICER,
SATTANKULAM,
TUTICORIN DISTRICT.

... APPELLANTS / RESPONDENTS

VS.

THE CORRESPONDENT,
RC MIDDLE SCHOOL,
NEDUNGULAM, SATTANKULAM,
TUTICORIN DISTRICT.

... RESPONDENT/WRIT PETITIONER

WA(MD)No.23/2017:-

1. THE STATE OF TAMIL NADU REP BY ITS SECRETARY, DEPARTMENT OF
SCHOLL EDUCATION, FORT ST.GEORGE, CHENNAI-9.

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

3.THE JOINT DIRECTOR OF SCHOOL EDUCATION, (SECONDARY EDUCATION)
COLLEGE ROAD, CHENNAI-6

4 THE CHIEF EDUCATIONAL OFFICER , THOOTHUKUDI DISTRICT,
THOOTHUKUDI.



5. THE DISTRICT EDUCATIONAL
THOOTHUKUDI.

OFFICER, THOOTHUKUDI DISTRICT,
... Appellants/Respondents

WEB COPY

- Vs. -

THE SECRETARY , V.V.D.MEMORIAL HIGHER SECONDARY SCHOOL,
AROKIAPURAM, THOOTHUKUDI,
THOOTHUKUDI DISTRICT

... Respondent/Writ Petitioner

WA (MD) No. 117/2016 :-

1. THE DIRECTOR OF SCHOOL, EDUCATION, COLLEGE ROAD, CHENNAI-6.
2 THE CHIEF EDUCATIONAL OFFICER , TIRUNELVELI DISTRICT.
3 THE DISTRICT EDUCATIONAL OFFICER CHERANMAHADEVI AT TIRUNELVELI.
... Appellants/Respondents

- vs -

THE SUPERINTENDENT OF SCHOOLS, R.C. DIOCESE OF TUTICORIN
CATHOLIC BISHOPS HOUSE, TUTICORIN ... Respondent/Writ Petitioner

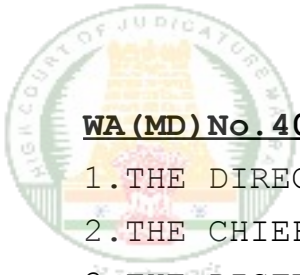
WA (MD) No. 149/2016 :-

1. THE STATE OF TAMILNADU , REP BY ITS SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION, FORT ST GEORGE, CHENNAI 600 009.
2. THE DIRECTOR OF ELEMENTARY EDUCATION, COLLEGE ROAD,
CHENNAI 600 006.
3. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI 627 001.
4. THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
VALLIYOOR, TIRUNELVELI DISTRICT 627 117.

... Appellants/Respondents

- vs -

THE CORRESPONDENT , ST. BENEDICTS MIDDLE SCHOOL, PATHINATHAPURAM,
TIRUNELVELI DISTRICT - 627 116. ... Respondent/Writ Petitioner



WA (MD) No. 407/16:-

1. THE DIRECTOR OF SCHOOL EDUCATION, COLLEGE ROAD, CHENNAI.
2. THE CHIEF EDUCATIONAL OFFICER TIRUNELVELI DIST, TIRUNELVELI.
3. THE DISTRICT EDUCATIONAL OFFICER, CHERANMAHADEVI,
TIRUNELVELI DISTRICT , TIRUNELVELI

...Appellants/Respondents

- vs -

G. ARUL THE CORRESPONDENT, CMS, EVANGELICAL SUVI DAVID
MEMORIAL, HIGHER SECONDARY SCHOOL, KARISAL, KARISALPATTI POST
AMBASAMUTHRAM TALUK, TIRUNELVELI.

... Respondent/Writ Petitioner

WA (MD) No. 548/2016:-

1. THE STATE OF TAMIL NADU REP BY ITS SECRETARY, DEPARTMENT OF
SCHOOL EDUCATION, FORT ST GEORGE, CHENNAI - 600 009.
2. THE DIRECTOR OF ELEMENTARY EDUCATION, COLLEGE ROAD,
CHENNAI - 600 006.
3. THE DISTRICT EDUCATIONAL OFFICER, DEVAKOTTAI - 630 302,
SIVAGANGAI DISTRICT.
4. THE DISTRICT EDUCATIONAL OFFICER, RAMANATHAPURAM DISTRICT,
RAMANATHAPURAM.
5. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
RAMANATHAPURAM DISTRICT, RAMANTHAPURAM.
6. THE ADDITIONAL ASSISTANT ELEMENTARY, EDUCATIONAL OFFICER,
R.S.MANGALAM, RAMANATHAPURAM.

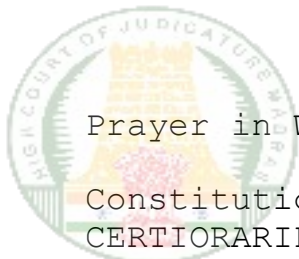
... Appellants/Respondents

- vs -

THE CORRESPONDENT R.C.HIGH SCHOOL, KEELAUACHANI - 630 408,
THIRUVANGAMPATHU (VIA), SIVAGANGAI DISTRICT.

... Respondent/Writ Petitioner

Prayer in WA(MD)Nos.22/2017, 23/2017, 117, 149, 407 and 548/2016:-
Writ Appeals are filed under Clause 15 of the Letter Patent against
the Order passed by this Honourable Court dated 11/11/2014 in WP
(MD)No.566/10, WP(MD)Nos.14302 of 2011, WP(MD)No.5916/10, WP(MD)
No.14537/2010, WP(MD)No.1764/2010 and WP(MD)No.6303/2011.



Prayer in WP(MD). 566/ 2010 :

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 proceedings issued by the 3rd respondent District Elementary Educational Officer in O.Mu.No. 4937/A2/09 dated 23.9.2009, QUASH THE SAME and further direct the 3rd respondent District Elementary Educational Officer to approve forthwith the appointment of R.Packiamani as Pre-Vocational Instructor (Sewing) in the petitioner-school w.e.f., 01.06.2009, and sanction and disburse the grant-in-aid towards her salary, allowances and other attendant benefits w.e.f., the said dated.

Prayer in WP(MD). 14302/ 2011 :

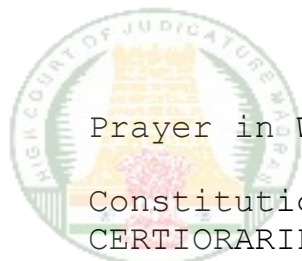
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 1st respondent State Government in G.O.Ms.No.39 (School Education (D1) Department) dated 21.03.2003 in so far the petitioner school is concerned and the consequential proceedings issued by the 4th respondent Chief Educational Officer in O. Mu. No.2077/Aa4/2009 dated 22.07.2009, quash the same and further direct the respondents 2 to 4 herein to pass appropriate orders permitting the conversion of the post of Instructor in Gardening into that of Instructor in Music. (Prayer amended vide Hon'ble Court order dated 09/01/2014 in MP(MD)1/2013)

Prayer in WP(MD). 5916/ 2010 :

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 proceedings issued by the 3rd respondent District Educational Officer in Na.Ka.No.6609/A4/09 dated 17.12.2009, quash the same and further direct the 3rd respondent District Educational Officer to forward forthwith the representation to the 1st respondent Director submitted to him by the Correspondent of St.Annes Higher Secondary School, Koodankulam dated 16.06.2009 (signed on 18.06.2009) and further direct the 1st respondent Director to consider and pass orders.

Prayer in WP(MD). 14537/ 2010 :

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 proceedings issued by the 4th respondent Additional Assistant Elementary Educational Officer in O.Mu.No.322/Aa1/2009 dated 16.03.2009, quash the same and further direct the respondents 2 to 4 herein to approve forthwith the appointment of the Sewing Mistress T. Jeya Flora in the petitioner school w.e.f. 11.06.2008 by converting the vocational post of Agriculture teacher into that of Sewing and sanction the salary and all other attendant benefits.



Prayer in WP(MD). 1764/ 2010 :

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 proceedings issued by the 3rd respondent District Educational Officer in O.Mu.No.5721/A3/08, dated 17-08-2009, QUASH THE SAME and further DIRECT the 3rd respondent District Educational Officer to approve forthwith the appointment of R.Boobathi as Pre-Vocational Instructor (Sewing) in the petitioner-school w.e.f., 03-10-2008, and sanction and disburse the grant-in-aid towards her salary, allowances and other attendant benefits w.e.f., the said date.

Prayer in WP(MD). 6303/ 2011 :

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 proceedings issued by the 3rd Respondent District Educational Officer in Mu.Mu.No.9292/A1/2008 dated 27-01-2009, quash the same, and further direct the Respondents 2 and 3 herein to approve forthwith the appointment of the Sewing Mistress S.Gnana Soundari in the petitioner - school w.e.f. 23-01-2004 by sanctioning the conversion of the vocational post of Weaving Teacher into that of Sewing Mistress and disburse the salary and all other attendant benefits.

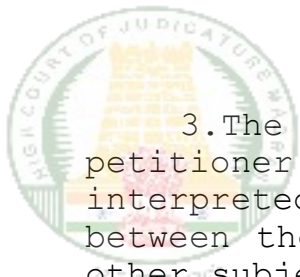
For Appellants	: Mr.V.R.Shanmuganathan Spl. Government Pleader
For Respondent	: Mr.Issac Mohanlal Senior Counsel

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

These appeals have been filed by the State challenging the common order in W.P(MD).Nos.1764 of 2010 etc., batch dated 11.11.2014.

2.In the batch of cases, the Management had approached this Court and sought for varied prayers and in all the writ petitions the Management sought for a direction upon the respective District Educational Officers to approve the appointment of respective Pre-vocational Instructors, who were working in their Schools. The permission was not granted, on account of the Government order, which was passed in G.O.Ms.No.39, dated 21.03.2003, by which, the Government issued directions for conversion of the post of Vocational Instructor between the branch Sewing and Music.



3.The learned Senior Counsel appearing for the respondent/writ petitioner would contend that the State Government order was interpreted in the manner that the conversion can take place only between these two subjects viz., Sewing and Music and not from any other subjects, regardless of the need of the institution. By way of illustration, it is submitted that the respondent in the Writ Appeal in W.A.No.22 of 2017 viz., R.C.Middle School, Nedungulam, was sanctioned a post of Vocational Instructor for the branch of Agriculture and the Teacher was appointed on 01.06.2010 and was continuing. On account of the request made by the parents and as there was no demand for the agriculture branch, the post was converted into Sewing, which has not been considered for approval in the light of embargo stated under G.O.Ms.No.39, dated 21.03.2003. It is further submitted that as a consequent of the aforesaid the post of Vocational Instructor (Agriculture) stood lapsed.

4.The learned Special Government Pleader appearing for the appellants would contend that the manner in which the G.O.Ms.No.39, is sought to be interpreted is incorrect and there is absolutely no ban for such conversion. However, on a reading of the Government order, we find that though in several places, the Government Order states that the conversion will be considered on need basis, the effect of the Government Order is only for conversion between the branches Sewing and Music and not between any other branches. In any event, this issue has become academic as against one of the order passed in the batch of cases in W.P.(MD).No.14652 of 2011 filed by the Secretary, Tagore Middle School, Aranmanai Siruvayal, Sivagangai District, the State preferred an appeal in W.A.No.1061 of 2015 and the Division Bench by judgment dated 27.10.2015, dismissed the appeal filed by the State. Thus, by applying the doctrine of merger, the order passed by the Division Bench in W.A.No.1061 of 2015 will merge with the order passed in the writ petition and consequently, the appeal filed by the State against the common order dated 11.11.2014 in the batch of writ petitions has to necessary fail.

5.Thus, for the above reasons, these writ appeals are dismissed. No costs.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary, State of Tamil Nadu,
Department of School Education, Fort Saint George, Chennai-9

2.The Director of School Education, College Road, Chennai-9

3.The Director of Elementary Education, College Road, Chennai-6



- 4.The District Elementary Educational Officer, Tuticorin District, Tuticorin
- 5.The Additional Assistant Elementary Educational Officer, Sathankulam, Tuticorin District
- 6.The Joint Director of School Education, Secondary Education, College Road, Chennai
- 7.The Chief Educational Officer, Thoothukudi District, Thoothukudi
- 8.The District Educational Officer, Thoothukudi District, Thoothukudi
- 9.The Chief Educational Officer, Tirunelveli District
- 10.The District Educational Officer, Cheranmahadevi, Tirunelveli
- 11.The District Elementary Educational Officer, Tirunelveli-627 001
- 12.The Additional Assistant Elementary Educational Officer, Valliyoor, Tirunelveli District-627 117
- 13.The District Educational Officer, Devakottai, Sivagangai District
- 14.The District Educational Officer, Ramanathapuram, Ramanathapuram, District
- 15.The District Elementary Educational Officer, Ramanathapuram District
- 16.The Additional Assistant Elementary Educational Officer, R.S.Mangalam, Ramanathapuram

+6ccs to M/s.Isaac Chamber, Advocate, SR.Nos.49939, 49940, 49941, 49943, 49944 and 49945

Ns
RL/23C/7P/KK/SAR4/12/3/2018

W.A. (MD) .Nos.22 and 23 of 2017 and
W.A. (MD) .Nos.117, 149, 407 and 548 of 2016