



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.23323 of 2017

and

W.M.P (MD) Nos.19608 & 19609 of 2017

The Correspondent,
St.Mary's Higher Secondary School,
Colachel - 629 251,
Kanyakumari District.

... Petitioner

Vs.

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

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

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

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the third respondent District Education Officer vide O.Mu.No.2366/A1/2017 dated 21.07.2017, quash the same and further direct the third respondent District Educational Officer herein to approve forthwith the appointment of D.Vanitha as Scavenger in the petitioner school w.e.f 16.03.2017 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.K.Ragatheesh Kumar
for Isaac Chambers

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate

O R D E R

The petitioner is a recognized higher secondary school.It is a minority institution.



2.The said school was sanctioned a post of Scavenger. One Kanagaraj who was appointed in the said post retired on 31.01.2014. In the said retirement vacancy, the petitioner appointed one Vanitha. The proposal for approving her appointment was submitted to the third respondent. The third respondent returned the proposal on 21.07.2017 on three grounds. The foremost ground was that prior permission was not obtained from the Director of School Education, Chennai. The other two reasons are procedural in nature. The petitioner had re-submitted the proposal on 03.10.2017. The order relieving the previous incumbent as well as attendance registers were enclosed at the time of re-submission of proposal.

3.The petitioner had specifically taken a stand that there was no need to obtain prior permission of the first respondent. The learned counsel appearing for the writ petitioner placed reliance on the decision reported in 2016-3-L.S.152 (*Deva Aisr V. The Secretary to Government, School Education Department and others*) for the proposition that prior permission for appointment of non-teaching staff need not be obtained.

4.The petitioner has clearly made out a case for granting of approval by the third respondent. In fact, the third respondent ought not to have returned the proposal stating that prior permission was not obtained. Following the return of the proposal vide communication dated 21.07.2017, the petitioner has resubmitted the proposal. The third respondent is directed to approve the appointment of D.Vanitha forthwith in the petitioner's school with effect from 16.03.2017 with all attendant and consequential benefits.

5.This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

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

2.The Chief Educational Officer,
Kanyakumari at Nagercoil,

<https://hcservices.ecourts.gov.in/hcservices/>
Kanyakumari District.



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

+1cc to Mr.ISSAC CHAMBERS,Advocate,SR. 40621

+1cc to M/S.Special Government Pleader,SR. 40541

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