



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **25.01.2018**

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.5055 of 2017

and

W.M.P. (MD). Nos.4075, 4076 & 10474 of 2017

WEB COPY

K.Palaniammal

.. Petitioner

Vs.

1. The Joint Director,
DPI Compund College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Dindigul District,
Dindigul.
3. The District Educational Offcier,
Dindigul District,
Dindigul.
4. The Secretary,
Devanger Higher Secondary School,
Chinnalapatti,
Dindigul District.

5.T.Rama

.. Respondents

(R-5 is impleaded vide Court order
dated 31.10.2017 in W.M.P.(MD).
No.13960 of 2017 in W.P(MD).No.5055
of 2017)

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Advertisement dated 24.02.2017 issued in Daily Thanthi Newspaper by the fourth respondent inviting applications from the candidates for the post of P.G. Assistant (Commerce) and quash the same as illegal and consequently direct the fourth Respondent herein to appoint me as P.G.Assistant (Commerce) in the existing vacancy as per Rule-15(4) of Tamil Nadu Recognized Private School Regulation Rules

For petitioner

: Mr. G.Prabhu Rajadurai
for M/s. J.Lawrance

For R-1 to R-3

: Mr. M.Jeyakumar
Additional Government Pleader

<https://hcservices.ecourt.gov.in/Reson4>

For R-5

: Mr. S.Karthik
: Mr. V.Panneer Selvam

**O R D E R**

Heard the learned Counsel on either side.

2. The writ petitioner is working as Lab Assistant in the fourth respondent School. A vacancy arose in the post of PG Assistant (Commerce) in the said School. As per Rule 15(4) of Tamil Nadu Recognised Private Schools (Regulation) Rules 1974, if eligible candidates are available within the same School, they must be considered. Only if qualified and suitable candidates are not available, the management can go for direct recruitment from the open market. In the present case, the writ petitioner as well as one Rama are working in the very same School and are qualified to hold the post of PG Assistant (Commerce).

3. The learned counsel appearing for the writ petitioner would further contend that the fifth respondent is not working on a regular basis in the very same School. Therefore, she cannot claim the benefit of Rule 15(4) of Tamil Nadu Recognised Private Schools (Regulation) Rules, 1973.

4. Be that as it may, the School management was clearly wrong in going for a direct recruitment when a qualified candidate is available in the very same School. In this view of the matter, the impugned notification is set aside. The contention that the writ petitioner did not apply in response to the said notification needs to be noted only to be rejected. The issue is not, whether the writ petitioner applied in response to the impugned notification. The issue is whether the said notification is valid or not. Tested in the light of the Rule 15(4) of Tamil Nadu Recognised Private Schools (Regulation) Rules, 1973, it is obvious that the impugned notification cannot stand. Therefore, the same is quashed. The fourth respondent shall fill up the vacancy in the post of P.G. Assistant (Commerce) by strictly adhering to the Rule 15 (4) of Tamil Nadu Recognised Private Schools (Regulation) Rules, 1973.

5. This Writ petition stands allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:

<https://hcservices.tn.gov.in/hcses/index>
Director,
DPI Compund College Road,
Chennai - 600 006.



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

3. The District Educational Officer,
Dindigul District,
Dindigul.

+1cc to Mr. J.Lawrance, Advocate Sr.No.44386
+1cc to Mr. V.Panneer Selvam, Advocate Sr.No.44517
+1cc to Mr. S.Karthik, Advocate Sr.No.44297
+1cc to The Spl. Government pleader Sr.No.44612

KMI

VB/SV/MMS/SAR3/20.02.2018/3P/8C

ORDER MADE IN
W.P. (MD) No.5055 of 2017
25.01.2018