

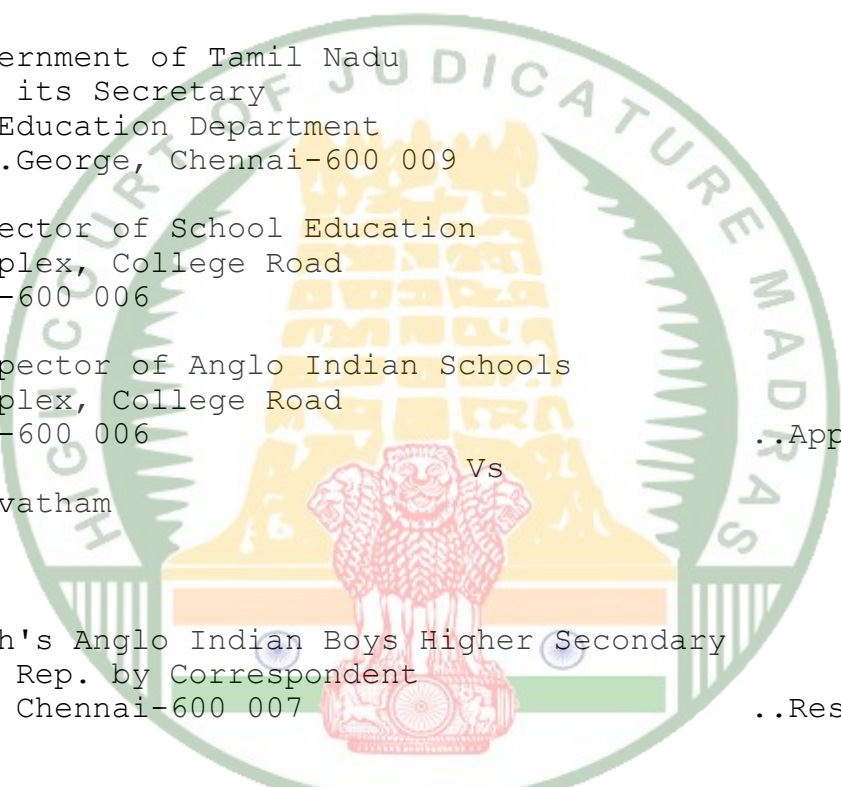
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.A.No.3190 of 2019
and C.M.P.No.20205 of 2019

- 
1. The Government of Tamil Nadu
Rep. by its Secretary
School Education Department
Fort St.George, Chennai-600 009
 2. The Director of School Education
DPI Complex, College Road
Chennai-600 006
 3. The Inspector of Anglo Indian Schools
DPI Complex, College Road
Chennai-600 006
- ..Appellants
- Vs
- 1.J.A.Asirvatham
 - 2.R.Joseph
 - 3.St.Joseph's Anglo Indian Boys Higher Secondary
School, Rep. by Correspondent
Vepery, Chennai-600 007
- ..Respondents

Writ Appeal filed under Clause 15 of Letters Patent,
against the order dated 16.08.2018 in W.P.No.34107 of 2012.

W.P.No.34107 of 2012:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records from the file of the first respondent dated 28.10.2011 made in letter No.3498/V.2/2007-19 and quash the same and consequently direct the respondents to regularise the service of the petitioners in terms of G.O.(Ms.) No.577 dated 1.4.81 and G.O.(Ms) No.1065 Education Dept. dated 19.11.93 with effect from the petitioners completion of five years of service as a contingent staff with all attendant service benefits to the petitioners.

For Appellants : Mr.K.Karthikeyan, Govt.Advocate

JUDGMENT

(Judgment of the Court was made by S.MANIKUMAR,J.)

A learned Single Judge allowed the Writ Petition filed by the respondents 1 and 2 herein, directing the appellants to regularize the services of the writ petitioners on par with similarly placed persons and extend all the monetary benefits by passing suitable orders in the light of G.O.Ms.No.577, dated 01.04.1981 and G.O.Ms.No.1065, dated 19.11.1993.

2. The respondents 1 and 2 were appointed as consolidated employees by the third respondent school to the post of Sweepers. When the petitioners sought for regularisation of their services and time scale of pay, the first appellant, vide impugned proceedings dated 28.10.2011, indicated that the respective management should bear the cost for such regularization and further indicated that the management should not include the expenditure on that account in the deficit grant and refrain from making a claim to the department to compensate the differential grant amount. As against which, the respondents 1 and 2/writ petitioners have filed W.P.No.34107 of 2012.

3. The learned Single Judge, referring to an order passed in W.P.(MD).No.10915 of 2007 dated 03.12.201 and held that the court finds no just and reasonable cause to take a different stand than the one taken in the above said decision and issued directions to the appellants to regularize the services of the writ petitioners.

4. Being aggrieved, the appellants/State has filed the above appeal. One of the main contentions made by the appellants is that prior permission in filling up the post of Sweeper in a Minority Institution has not been obtained by the 3rd respondent.

5. During the course of hearing, Mr.K.Karthikeyan, learned Government Advocate, fairly admitted that post of Sweeper is a sanctioned post and it is specifically stated in paragraph 8 of the counter affidavit filed by the Government before the writ court. The said submission of the learned Government Advocate is placed on record.

6. The issue, as to whether prior permission from the competent authority is required to fill up a sanctioned post in the Minority Institution, is no more res integra. Reference can be made to a decision of this Court in W.A.No.1596 of 2017, dated 28.11.2017 (S.Thangamani Vs. Government of Tamil Nadu).

7. Going through the material record, there is no error in the order of the Writ Court, warranting interference. Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

nvsri
To

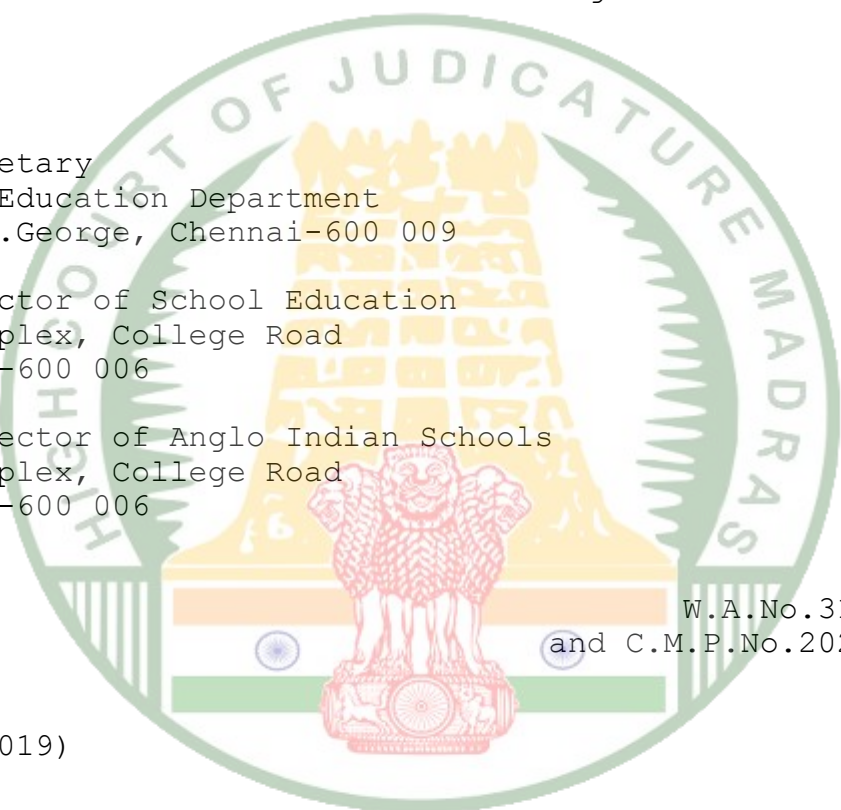
1.The Secretary
School Education Department
Fort St.George, Chennai-600 009

2.The Director of School Education
DPI Complex, College Road
Chennai-600 006

3.The Inspector of Anglo Indian Schools
DPI Complex, College Road
Chennai-600 006

W.A.No.3190 of 2019
and C.M.P.No.20205 of 2019

PP(CO)
SP(31/10/2019)

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The text "HIGH COURT OF JUDICATURE MADRAS" is written in a green circle around the central image. Below the seal, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

सत्यमेव जयते

WEB COPY