



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.20033 of 2019

and

W.M.P. (MD) Nos.16551 and 16554 of 2019

The Correspondent,
St.Joseph's Girls Higher Secondary School,
Madurai-625 009, Madurai District. ... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.

2.The Director of School Education,
College Road, Chennai-600 009.

3.The Chief Educational Officer,
Madurai, Madurai District.

4.The District Educational Officer,
Madurai, Madurai District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the fourth respondent District Educational Officer, vide proceedings in O.Mu.No.1961/A2/2019, dated ..07.2019, quash the same and further direct the respondents herein to approve forthwith the appointment of M.Karthigai Selvi as Scavenger w.e.f., 01.04.2019 in the petitioner's school and disburse the grant-in-aid towards the petitioner's salary with all attendant benefits from the said date.

For Petitioner : Ms.A.Amala
For Respondents : Mr.A.Thiagarajan,
Government Advocate.

ORDER

This Writ Petition is filed to quash the order issued by the fourth respondent / District Educational Officer, vide proceedings in O.Mu.No.1961/A2/2019, dated ..07.2019 and further to direct the respondents herein to approve forthwith the appointment of M.Karthigai Selvi as Scavenger w.e.f., 01.04.2019 in the



petitioner's school and disburse the grant-in-aid towards the petitioner's salary with all attendant benefits from the said date.

2. In the petitioner's School, there is a sanctioned post of Scavenger. The said post of Scavenger fell vacant on 01.04.2019, in the petitioner's school, due to the retirement of the then incumbent, namely, M.Muniyammal, on 31.03.2019. The petitioner's school appointed one M.Karthigai Selvi as Scavenger with effect from 01.04.2019. The petitioner's school has submitted a proposal to the third respondent through the fourth respondent on 15.04.2019, for approval of the said appointment with effect from 01.04.2019 and disburse grant-in-aid towards salary. However, the fourth respondent instead of sending the said proposal to the third respondent, has returned the same, by his proceedings in July, 2019, stating that as per G.O.Ms.No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018, apart from the post of Junior Assistant or Record Clerk, Office Assistant and Watchman, other posts can be allowed to continue till the retirement of present incumbents and restrains the schools from filling up such post. Challenging the said order of the fourth respondent, the petitioner's school has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner has raised various grounds for setting aside the impugned order of the fourth respondent and mainly contended that the petitioner's school filed W.P.(MD)No.11895 of 2019, challenging the Government Order in G.O.Ms.No.238, dated 13.11.2018, wherein this Court, by its order dated 15.05.2019, has ordered status quo and the same is pending before this Court. The learned counsel appearing for the petitioner mainly contended that the post of Scavenger is necessary for keeping the school clean, especially, toilets. In the school, there are 2700 girl students and 71 staffs are working.

4. The learned counsel appearing for the petitioner further contended that another school filed Writ Petition in W.P.(MD) No.13404 of 2019, challenging the said Government Order, wherein this Court, by its order dated 14.06.2019, granted interim stay. In view of the order of status quo and the interim order granted by this Court, the said impugned order of the fourth respondent is invalid and prayed for allowing the Writ Petition.

5. The learned Government Advocate appearing for the respondents submitted that the Government Order in G.O.Ms.No.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018, is still in force and the same is not set aside by this Court. The petitioner's school is not entitled to take advantage of the interim order granted pending disposal of the Writ Petitions and prayed for dismissal of the Writ Petition.



6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and perused the materials available on record carefully.

7. From the materials on record, it is seen that after retirement of one M.Muniyammal from the post of Scavenger on 31.03.2019, one M.Karthigai Selvi was appointed as Scavenger in the sanctioned post with effect from 01.04.2019. When the petitioner's school sought for approval from the third respondent, a proposal sent to the third respondent through the fourth respondent, was returned by the fourth respondent on the ground that as per the Government Order in G.O.Ms.No.238, dated 13.11.2018, the petitioner's school is not entitled to fill up the said post. The said ground is not valid at present, as this Court has ordered status quo in W.P.(MD)No.11895 of 2019 as well as granted interim stay in W.P.(MD)No.13404 of 2019. At the same time, it is to be noted that the Writ Petitions are pending and no final orders are passed thereon. In such situation, the order of the fourth respondent is quashed. The third respondent is directed to approve the appointment order of the said M.Karthigai Selvi as Scavenger, subject to the result of the Writ Petition in W.P.(MD)No.11895 of 2019, filed by the petitioner's school, challenging the Government Order in G.O.Ms.No.238, dated 13.11.2018.

8. With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-600 009.

2. The Director of School Education,
College Road, Chennai-600 009.

3. The Chief Educational Officer,
Madurai, Madurai District.



4.The District Educational Officer,
Madurai, Madurai District.

+1CC TO MR.A.AMALA, Advocate Sr. No. 91321

W.P. (MD) No.20033 of 2019

04.10.2019

TR(12.11.2019) 4P 6C