

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
30.11.2020	09.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS. 14777 & 15242 OF 2014

K.Mabel Rani ... Petitioner in WP 14777/14

S.U.Vinayagam ... Petitioner in WP 15242/14

- Vs -

1. The District Educational Officer
East Chennai, Chennai - 21.
2. The Secretary
Sir Theagaraya College Higher
Secondary School Committee
Chennai 600 021. ... RR-1 & 2 in both petitions
3. R.Thirumavalavan ... R-3 in WP 14777/14
(R-3 impleaded vide order of
court dated 25.01.2017 in MP No.3/2014)
4. R.Poovizhi ... R-3 in WP 15242/14

W.P. No.14777 of 2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus forbearing the respondent from filling up the vacancy to the post of PG Assistant in Commerce in 2nd respondent school without reference to the order of appointment issued in favour of the petitioner dated 5.12.13 by the 2nd respondent and consequently direct the respondents to approve the appointment of the petitioner in the post of PG Assistant in Commerce and to release grant-in-aid from the date of initial appointment in the 2nd respondent school with all consequential and other attendant benefits including arrears of salary.

W.P. No.15242 of 2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in No.Nil dated 3.6.14 and to quash the same and consequently direct the respondents to approve the appointment of the petitioner in the post of PG Assistant (Mathematics) from the date of initial appointment based on the order of

appointment dated 5.12.13 issued by the 2nd respondent and to release grant-in-aid in favour of the petitioner with consequential and other attendant benefits including arrears of salary.

For Petitioners :Mr. G.Sankaran

For Respondents: Mr. S.Suresh Kumar,
GA for R-1 in both WPs
Mr. B.Ravi for R-2 in both WPs
Mr. L.Chandrakumar for R-3
in WP 15242/14
Mr.R. Subramanian R3 in
W.P. 14777/2014

COMMON ORDER

It is the case of the petitioners that based on their qualification, they were selected and appointed as PG Assistant in Commerce and Mathematics as Management Staff on 8.9.09 and 8.9.11 in the 2nd respondent school, which is a Government aided school receiving grant-in-aid from the Government.

2. Pursuant to the arising of vacancy in the aided post in the cadre of PG Assistant in Commerce, applications were called for to which the petitioners submitted their application and after conduct of interview on 5.12.13, the petitioners were selected by the Selection committee based on the resolution dated 5.12.13 and issued with order of appointment on 5.12.13 by the 2nd respondent. The petitioners joined the said post on 6.12.13 and have been continuing in the said post. However, the petitioners were called upon to hand over the original appointment order for the same to be approved by the school committee and, therefore, the petitioners handed over the original appointment order to the Headmaster, however, till date, the same has not been returned.

3. It is the further averment of the petitioners that instead of approving their appointment, the 2nd respondent had once again asked the petitioners to attend the interview by submitting a fresh application and left no option, the petitioners submitted another application and attended the interview on 20.5.14. The petitioners came to know that a fresh selection process has been undertaken notwithstanding the fact that the petitioners have earlier been selected and appointed on 5.12.13. It is the stand of the petitioners that their appointment orders dated 5.12.13 having not been cancelled till date or annulled in a manner known to law, the petitioners having come out successfully in the earlier selection process on 5.12.13, the present selection process at the behest of the 2nd

respondent is impermissible. It is the further averment of the petitioners that the 2nd respondent is taking action to fill up the post with another candidate for extraneous reasons, which is ex-facie arbitrary, illegal and against law. In the above backdrop, the present petitions have been filed by the petitioners for the relief supra.

4. Learned counsel appearing for the petitioners submitted that though initially both the petitioners were appointed in the Management quota, however, due arising of vacancy in the year 2013, the petitioners submitted application and after going through the rigour of a selection process, the petitioners were selected by a selection committee and were appointed vide resolution dated 5.12.13 and issued with the appointment orders. It is the submission of the learned counsel for the petitioners that once the petitioners have been appointed in the approved posts, the 2nd respondent ought to address the educational authorities to grant approval to the said posts. However, without adverting to the said procedure, with ulterior motive, the petitioners were once again go through the routine of another selection process in which their candidatures were negatived and they were not selected. It is the submission of the learned counsel for the petitioners that the appointment orders issued to the petitioners on 5.12.13 having not been cancelled or annulled in a manner known to law, the whole selection process conducted once over in May, 2014, to the detriment of the petitioners, is totally non est in law and does not stand the test of judicial scrutiny.

5. It is the further submission of the learned counsel for the petitioners that the petitioners having joined the posts and have been functioning, the rights accrued to them by the said act cannot be stifled without any valid reason or in a manner alien to law as the records clearly establish that the petitioners were functioning in the said post.

6. It is the further submission of the learned counsel for the petitioners that the inaction on the part of the 2nd respondent to pursue and obtain approval of appointment of the petitioners, whose appointments have been vetted by the school committee, rejecting the candidatures of the petitioners in the second selection process without the initial selection process being cancelled is totally impermissible and cannot be legally sustained.

7. It is the further contention of the learned counsel for the petitioners that in the earlier round of litigation in W.P. No.33942/13, which was at the instance of one Karunanidhi, in which the petitioners were not arrayed as party respondents, the 2nd respondent had conceded before the Court that the

appointments to the post of PG Assistants in Botany, Commercy, Mathematics and Telugu have been cancelled. However, the petitioners having been appointed in the said post, without impleading them and putting them on notice, submitting an undertaking to have the said appointments cancelled clearly reveals the mala fide intent of the 2nd respondent and the said act totally vitiates the order passed by the 2nd respondent in cancelling the appointment of the petitioners.

8. Learned counsel appearing for the 2nd respondent submitted that W.P. No.33942/13 was filed for a direction to the concerned authorities to follow the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act in filling up the post of PG Assistants in the 2nd respondent school in which a stand was taken by the 2nd respondent herein that the appointments made to the post of PG Assistants were cancelled and recording the same, the writ petition was closed by this Court on the ground that fresh selection process would be taken up for filling up the said posts in view of non-observance of mandatory provisions of the Act, more especially Section 18 of the Tamil Nadu Recognised Private Schools Act. It is the further submission of the learned counsel that the same was also informed to the petitioners.

9. It is the further submission of the learned counsel for the 2nd respondent that the appointment of the petitioners were only on temporary basis and subsequent to the cancellation of appointment, they having appointed for the second time and participated in the selection process, the petitioners are estopped from questioning the validity of the selection process. In this regard, reliance is placed on the decision of the Hon'ble Supreme Court in D.Sarojakumari - Vs - R.Helen Thilakom & Ors. (2017 (9) SCC 478).

10. It is the further submission on behalf of the respondents that the petitioners have not approached the Court with clean hands and they have obtained the interim order suppressing material facts, more especially, the order passed by this Court in W.P. No.33942/2013, however, as submitted by the petitioners, they were not party to the above writ petition and were not aware of the proceedings and, therefore, this Court is not venturing much into the said submission. Further, the petitioners having accepted the cancellation of their appointments and requested to have their services continued as Management staff, the petitioners cannot turn around and file the present petitions stating that their initial appointments should be held to be valid. Further, the petitioners have also accepted the relieving order and relinquished the post and, therefore, they cannot come before this Court and claim their appointments are clean.

11. It is the further submission on behalf of the 2nd respondents that in the second round of selection, many persons applied and participated and the 3rd respondent was selected based on merit and ability by the selection committee and the same was accepted by the School Committee and appointment orders were issued, but for the interim orders of this Court, they could not join the said post.

12. It is the further submission on behalf of the 2nd respondent that the earlier selection process, which did not have the approval of the school committee, was cancelled on account of mandatory violation, as the same was made without following the roster points, which was the basis on which the said appointments were cancelled at the instance of one Karunanidhi in W.P. No.33942/13. It is the further submission on behalf of the 2nd respondent that pursuant to the said order, the irregularities in the earlier selection was gone into by the President of the School Committee, which is evident from the report dated 15.12.13, which clearly states that the said appointments did not have the approval of the school committee, pursuant to which resolution was passed cancelling the entire selection process. Emphasis is laid on Section 18 (1) (b) of the Tamil Nadu Private School Regulation Act to drive home the point that the school committee alone is competent to appoint teaching and non-teaching staff of the school and that the Secretary of the school is only to carry out the decisions of the School Committee in terms with Rule 13 (4) of the Tamil Nadu Private School Regulations. In the absence of approval by the school committee, the entire appointment is invalid, without authority and jurisdiction.

13. Counter affidavits have been filed on behalf of the 3rd respondent in both the petitions in which, in sum and substance, the averments of the 2nd respondent relating to the selection process and the consequent selection of the respective 3rd respondent for the post has been concurred and it is the further averment of the 3rd respondent that in view of the interim order of this Court, they have not been able to join the said post and their selection being in accordance with law and approved by the school committee, these writ petitions be dismissed by allowing them to join the said post.

14. In reply to the above averments of the respondents, it is the stand of the petitioners that though no cancellation of selection was made, however, the petitioners, due to compulsion, were made to give the letter relinquishing their appointment, on the ground that the said appointments could not be approved. It is the further stand of the petitioners that the writ petition in W.P. No.33942/2013 at the behest of one Karunanidhi, is a

motivated one, as is evident from the fact that the petitioners were asked not to sign the attendance register on and from 10.12.13, while W.P. No.33942/13 has been filed on 12.12.13. It is the further stand of the petitioners that only on the date of hearing of the said petition, i.e., 17.12.13, the Secretary had obtained letters from the petitioners as if their appointment orders have been cancelled. It is the further of the petitioners that the school committee meeting was held only on 16.12.13 in which resolution was taken with regard to the appointments made on 5.12.13. However, no cancellation of the orders of appointment issued to the petitioners have been filed, which demolishes the case of the 2nd respondent. Therefore, it is submitted that the stand of the respondents that the earlier appointments have been cancelled and that the petitioners having taken part in the fresh selection process cannot question the same, is totally against the materials on record and further the petitioners having not provided with the order of cancellation of their appointments, they cannot question the same under apprehension.

15. This Court bestowed its best attention to the submissions advanced by the learned counsel on either side and also perused the materials available on record as also the decision relied on by the 2nd respondent.

16. The facts in issue are not in dispute. The initial appointment of the petitioners as management staff and their subsequent selection on 5.12.13 in the selection process for the post of PG Assistant (Commerce) and (Mathematics), the subsequent cancellation of their appointments based on the stand taken by the respondents before this Court in W.P. No.33942/13 and the subsequent selection process in which the petitioners also partook, but did not come out successful and in which the respective 3rd respondent herein came out successful leading to the filing of the writ petition and obtaining an order of injunction are facts borne out by record and there is no dispute with regard to the same. However, the dispute lingers only on the cancellation of the appointment of the petitioners, which according to the petitioners have not been cancelled and also the non-obtaining of approval of the school committee with regard to their appointments, which according to the respondents, makes the appointment of the petitioners invalid in the eye of law.

17. In the above backdrop of the contentions, which are two-fold, before proceeding to analyze the said contentions and counter contentions raised by the learned counsel on either side, the whole issue herein revolves around Section 18 of the Tamil Nadu Private Schools Regulation Act and for better clarity, the same is extracted hereunder :-

"18. Functions of the school committee and responsibility of educational agency under the Act:- (1) Subject to the provisions of this act and the rules made thereunder the school committee shall have the following functions, namely:-

(a) to carry on the general administration of the private school excluding the properties and funds of the private school.

(b) To appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their service; which shall not contravene any of the provisions made in the Rules or directions issued under this Act, and

(c) to take disciplinary action against teachers and other employees of the private school following the prescribed procedure.

(2) The educational agency shall be bound by anything done by the school committee in the discharge of the functions of that committee under this Act.

(3) For the purposes of this Act, any decision or action taken by the school committee in respect of any matter over which the school committee has jurisdiction shall be deemed to be the decision or action taken by the educational agency.

(4) The Secretary of the school committee shall send a quarterly Return showing the decisions taken at the meetings of the school committee held during the Quarter under report and enclose it to that monthly staff grant Statement ending with that quarter."

(Emphasis Supplied)

18. From a careful reading of the above provision, more especially Section 18 (1) (b), it is explicitly clear that insofar as appointment of teaching and non-teaching staff is concerned, the school committee is vested with the powers to appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their service; which shall not contravene any of the provisions made in the Rules or directions issued under this Act. Therefore, any appointment of teaching and non-teaching staff can be made only at the instance of the school committee upon its grant of approval and no other person or entity in the school has the power to appoint teaching and non-teaching staff. On the approval of the appointment of teaching and non-teaching staff of the private aided school by the school committee, the

subsequent approval of the said post is vested with the concerned education authorities and on this issue there is no dispute.

19. In the wake of the abovesaid provision, it is to be seen whether the initial appointment of the petitioners by issuance of their appointment orders dated 5.12.13 does have the approval of the school committee. Though it is the stand of the petitioners that their appointments are valid and they have been continuing in the said post, however, the curious question that requires the consideration of this Court is whether the said appointment of the petitioners were in consonance with Section 18 (1) (b) of the Act, i.e., whether their appointments have the requisite approval of the school committee.

20. To find out the actual scenario based on the contentions advanced, this Court called upon the respondents, more especially the 2nd respondent, to place before this Court, the originals of the applications received pursuant to the second notification calling for recruitment, the marks awarded to the various candidates, more particularly the petitioners and the respective 3rd respondent herein, the copies of the minutes of the school committee and the original book relating to the minutes of the school committee for perusal of this Court to arrive at a conclusion as to the merits and demerits of the case projected by the parties.

21. Pursuant to the said direction, the aforesaid records have been placed before this Court in sealed cover. On a careful perusal of the records, more especially the marks obtained by the petitioners and the respective 3rd respondent herein, it transpires that each and every qualification as also the achievements in the academic field pertaining to the petitioners and the 3rd respondent herein has been assessed, graded and marks have been awarded in which the respective 3rd respondent herein has obtained higher marks than the petitioners, meaning thereby, that they are more meritorious than the petitioners. Therefore, on the aspect of quantification of merit and the pursuant selection of the 3rd respondent, the act of the 2nd respondent cannot be found fault with, as regards the second selection process.

22. However, the pivotal question that looms large before this Court is whether the initial appointment of the petitioners did have the approval of the school committee. A careful perusal of the original minutes book reveals that on 16th August, 2012, the school committee was convened to deliberate various issues, which have been tabulated in the minutes book and recorded properly and it has been signed by the President and the presence of all the persons forming the school committee has

been marked with their respective signatures. It is to be noted that the petitioners were appointed on 5.12.13. In the year 2013, the school committee meeting was convened on 3rd July, 2013 in which, in subject No.3, it was resolved to authorise the Secretary to proceed with the procurement of teaching and non-teaching staff in accordance with the Act and the Rules and that the Headmaster was directed to submit requirement in a format. Thereafter, on 19.10.13, the school committee meeting was convened in which deliberations were carried out and resolutions were passed to seek permission to fill up various existing vacancies. On 16.12.13 the school committee meeting was convened in which the discussion on subject No.2 and the resolution thereof reads as under :-

Sub No.2	To discuss the approve of P.G. Assistant posts selected by the Selection Committee Members The members present resolved to cancel the process of appointments of four teachers (P.G. Assistants) and no further discussion was carried out in this matter. A Sub Committee is constituted for the following members 1. Dr. A.Gunasekaran - (Principal - Chairman) 2. Dr. P.Theagarayan - Member 3. C.A.P.R.Venkateswaran - Member 4. Thiru G.R.Shankar - Member To go into the merits and demerits of the process of appointment made on 05.12.2013 and to submit the report to the advocate for onward submission in the Honourable Madras High Court.
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23. Pursuant to the above resolution, representation was made in W.P. No.33942/13 in which this Court recorded the stand of the 4th respondent therein, viz., the Secretary, that the entire process of selection in respect of appointment to the post of P.G. Assistant in Botany, Commerce, Mathematics and Telugu have been cancelled. It is to be pointed out that prior to 16.12.13 and after 19.10.13, there was no convening of the school committee meeting and no approval relating to the appointment of the petitioners have been granted. Therefore, the records, as pointed out above, unequivocally reveal that the the appointment of the petitioners have not been approved by the School Committee; in fact their appointments have been deliberated by the school committee and resolution was passed to cancel the same. The counter of the 2nd respondent reveals that even the 2nd respondent has conducted an enquiry by the President

of the School Committee with regard to the appointment of the petitioners and a report has been placed before the School Committee with regard to their appointments. Had the school committee given its approval for appointment of the petitioners, there was no necessity for the President to conduct an enquiry with regard to the appointment of the petitioners. Such being the case, this Court is at a loss to understand as to how the said appointment of the petitioners would hold good in the absence of approval by the school committee, which is the mandatory prescription u/s 18 of the Act. It is to be pointed out that even as per the petitioners, they have been appointed only on 5.12.13 and the school committee has resolved to cancel their appointments for non-following of the mandatory conditions on 16.12.13. That being the case, when the appointment of the petitioners itself is invalid in law, the stand of the petitioners that the cancellation of their appointment is arbitrary, illegal and impermissible does not merit acceptance. Within a span of a week and a half, the appointment of the petitioners have been cancelled. The minutes book clearly reveal that the Secretary was only permitted to take steps in the month of October, 2013 to seek permission for filling up of the posts. However, the minutes book does not reveal that the appointment of the petitioners have been approved by the school committee. That being the case, the stand of the respondents that no approval has been granted by the school committee as envisaged u/s 18 of the Act stands vindicated.

24. The affidavit of the petitioners reveal that though they were appointed on 5.12.13 and they joined on 6.12.13 and they were called upon to hand over the original appointment order for approval of the school committee, however, it is to be pointed out that the school committee, as early as on 16.12.13, had cancelled the appointment the petitioners. That being the case, the petitioners could not have continued in service on and after 16.12.13 and, therefore, the stand of the petitioners that they were called upon in May, 2014 to apply afresh for the post does not inspire the confidence of this Court. In this regard, it is to be pointed out that though the petitioners were deemed to be not in service on and from 16.12.13 pursuant to rejection of their appointment by the school committee, the petitioners have not only kept silent, but have also partaken in the subsequent selection process, but only to come out unsuccessful, which frustration has resulted in the filing of the present writ petitions.

25. In this regard, the decision in Sarojakumari's case (supra) relied on by the 2nd respondent assumes significance. In the said decision, the Hon'ble Supreme Court, analysing various decisions of the Apex Court has categorically held that a candidate, who has taken part in a selection process and has

come out unsuccessful, is estopped from challenging the said selection process. The relevant portion of the said order is quoted hereunder :-

"4. The main ground urged on behalf of the appellant is that Respondent 1 having taken part in the selection process could not be permitted to challenge the same after she was unsuccessful in getting selected. The law is well settled that once a person takes part in the process of selection and is not found fit for appointment, the said person is estopped from challenging the process of selection.

5. In *G. Sarana v. University of Lucknow* [*G. Sarana v. University of Lucknow*, (1976) 3 SCC 585 : 1976 SCC (L&S) 474], the petitioner after appearing in the interview for the post of Professor and having not been selected pleaded that the experts were biased. This Court did not permit the petitioner to raise this issue and held as follows:

"15. We do not, however, consider it necessary in the present case to go into the question of the reasonableness of bias or real likelihood of bias as despite the fact that the appellant knew all the relevant facts, he did not before appearing for the interview or at the time of the interview raise even his little finger against the constitution of the Selection Committee. He seems to have voluntarily appeared before the committee and taken a chance of having a favourable recommendation from it. Having done so, it is not now open to him to turn round and question the constitution of the committee."

6. In *Madan Lal v. State of J&K* [*Madan Lal v. State of J&K*, (1995) 3 SCC 486 : 1995 SCC (L&S) 712], the petitioner laid challenge to the manner and method of conducting viva voce test after they had appeared in the same and were unsuccessful. This Court held as follows:

"9. ... Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then,

only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted."

7. In *Manish Kumar Shahi v. State of Bihar* [*Manish Kumar Shahi v. State of Bihar*, (2010) 12 SCC 576 : (2011) 1 SCC (L&S) 256] , this Court held as follows:

"16. ... Surely, if the petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The petitioner invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the petitioner clearly disentitles him from questioning the selection and the High Court [*Manish Kumar Shahi v. State of Bihar*, 2008 SCC OnLine Pat 321 : (2009) 4 SLR 272] did not commit any error by refusing to entertain the writ petition."

8. In *Ramesh Chandra Shah v. Anil Joshi* [*Ramesh Chandra Shah v. Anil Joshi*, (2013) 11 SCC 309 : (2013) 3 SCC (L&S) 129] the petitioners took part in the process of selection made under the general rules. Having appeared in the interview and not being successful they challenged the method of recruitment itself. They were not permitted to raise such an objection. This Court held as follows:

"24. In view of the propositions laid down in the abovenoted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or methodology adopted by the Board for making selection and the learned Single Judge [*Anil Joshi v. State of Uttarakhand*, 2012 SCC OnLine Utt 521] and the Division Bench [*Ravi Shankar Joshi v. Anil Joshi*, 2012 SCC OnLine Utt 766] of the High Court committed grave error by entertaining the grievance made by the respondents."

9. The same view has been taken in *Madras Institute of Development Studies v. K.*

Sivasubramaniyan [Madras Institute of Development Studies v. K. Sivasubramaniyan, (2016) 1 SCC 454 : (2016) 1 SCC (L&S) 164 : 7 SCEC 462] .

10. The Kerala High Court did not note the abovementioned judgments and ignored the well-settled position of law in rejecting the specific plea raised by the appellant herein that the appellant could not raise the issue that no direct recruitment should have been conducted once she had applied for and taken part in the selection process by direct recruitment.

11. As far as the present case is concerned, an advertisement was issued by Respondent 6 inviting applications for the post of Music Teacher in Samuel LMS High School. Respondent 1 did not raise any objection at that stage that the post could not be filled in by direct recruitment and she should be considered for promotion. Not only that, she in fact, applied for the post and took part in the selection process. After having taken part in the selection process and being found lower in merit to the appellant, she cannot at this stage be permitted to turn around and claim that the post could not be filled in by direct recruitment. The reasoning of the learned Single Judge in rejecting the objection is not in consonance with the law laid down by this Court. In view of this, we need not go into the other issues raised. "

26. As already pointed out above, the petitioners, though appointed on 5.12.13, even according to their own version, were barred from even signing the attendance and their appointments were cancelled on 16.12.13 by the school committee due to non-following of the mandatory conditions and further, their appointments were not approved by the school committee even at the first instance. Further, a perusal of the appointment order issued to the petitioners reveal that the said appointments are subject to the approval of the District Educational Officer. The appointment order also reveals that the petitioners have no claim over the management for remuneration for the service rendered in the event of their appointments not being approved by the District Educational Officer. However, in the case on hand, the school committee itself not having approved the appointment of the petitioners, the question of appointment of the petitioners being approved by the District Educational authorities does not even arise. That

being the case, the school committee not having given its approval, there is no question of cancellation of their appointments and even otherwise, the illegal appointment of the petitioners were cancelled by the school committee by a subsequent resolution dated 16.12.13, which was intimated to this Court on 17.12.13 and the petitioners having not chosen to challenge the said cancellation, but partook in the selection process, which was held in May, 2014, and the petitioners not having come out successful, challenging the said selection process is per se impermissible in view of the inalienable dicta laid down by the Hon'ble Apex Court in a catena of decisions supra.

27. Insofar as the contention of the petitioners that they were not party to the writ petition in W.P. No.33942/13 at the behest of one Karunanidhi, based on which the 2nd respondent herein took a stand that the appointment of the petitioners were cancelled, which was recorded by this Court, and, therefore, the said cancellation would not have the approval of law, inasmuch as the petitioners were not heard, however, the said contention is liable to be rejected for the simple reason that as pointed out above the appointment of the petitioners not having been made in consonance with Section 18 of the Act, the whole selection process and the consequent appointment of the petitioners itself is invalid and vitiated and the said invalidity cannot be cured by merely impleading the petitioners in W.P. No.33942/13 and hearing them, as no legal right accrues on the petitioners to ventilate their grievance.

28. On a holistic consideration of the entire issue, coupled with the materials available on record, this Court is of the considered view that the grievance projected by the petitioners does not stand the test of legal scrutiny and, therefore, this Court has no hesitation to hold that these petitions, at the instance of the petitioners are liable to be dismissed.

29. Before the conclusions of the submissions, it was brought to the notice of this Court that the 3rd respondent in W.P. No.15242/2014, viz., Poovizhi, has already joined in the post in the 2nd respondent school and the 3rd respondent in W.P. No.14777/14, viz., Thirumavalavan, has already been appointed as Headmaster in Karnataka Sangam Higher Secondary School, T.Nagar, Chennai, which order has also been approved by the educational authorities. The said submission is taken on record.

30. For the reasons aforesaid, both the writ petitions are dismissed. As noted above, the 3rd respondent in W.P. No.15242/14 having already joined the post in the 2nd respondent school, and only one post is vacant in the cadre of PG Assistant

(Commerce), the 2nd respondent is directed to take steps to fill up the said post by following the procedure laid down under the Tamil Nadu Private School Regulation Act and it is made clear that the petitioner is also entitled to participate in the selection process, if otherwise found eligible as per rules. There shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

GLN

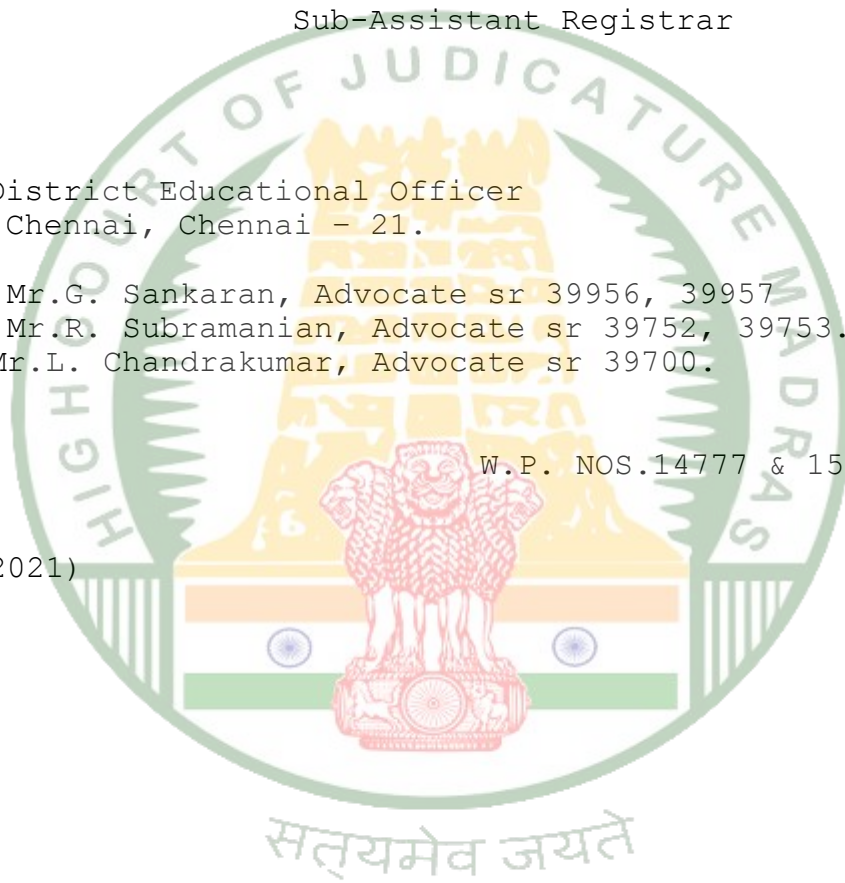
To

The District Educational Officer
East Chennai, Chennai - 21.

+2 Ccs to Mr.G. Sankaran, Advocate sr 39956, 39957
+3 Ccs to Mr.R. Subramanian, Advocate sr 39752, 39753.
+1 Cc to Mr.L. Chandrakumar, Advocate sr 39700.

W.P. NOS.14777 & 15242 OF 2014

RSV(CO)
SP(05/01/2021)



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