



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2020

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.5581 of 2012

and

M.P. (MD)No.2 of 2012

WEB COPY

V.Kala

... Petitioner

Vs.

1.The District Educational Officer,
Se.Va.Govt.Higher Secondary School Campus,
Tuticorin.

2.The Secretary,
Hindu Higher Secondary School,
Alwarthirunageri, Tuticorin District.

3.S.Esakki

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in the proceedings of the Secretary, Hindu Higher Secondary School, Alwarthirunageri, Tuticorin, dated 21.04.2011, on the file of the 2nd respondent and quash the same as illegal, ultravires and unconstitutional and in consequence direct the 2nd respondent to appoint the petitioner in the post of record clerk of the 2nd respondent school (Hindu Higher Secondary School', Alwarthirunageri).

For Petitioner : Mr.S.Ramesh

For R1 : Mr.J.Gunaseelan Muthiah
Addl.Govt.Pleader

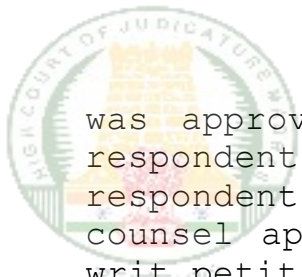
For R2 : Mr.C.Venkatesh Kumar
For M/s.Ajmal Associates

For R3 : Mr.V.George Raja

O R D E R

The relief sought for in the present Writ Petition is to quash the order dated 21.04.2011, issued by the 2nd respondent, appointing the 3rd respondent, as Record Clerk, in the 2nd respondent school.

2. The 3rd respondent was appointed with effect from 21.04.2011
<https://hcservices.courts.gov.in/hcservices> to the notice of this Court that the appointment



was approved by the competent educational authorities. The 3rd respondent is working now as an approved staff of the 2nd respondent school for many years and therefore, the learned counsel appearing on behalf of the 2nd respondent states that the writ petition deserves to be dismissed.

WEB COPY

3. The learned counsel appearing on behalf of the writ petitioner states that there were many irregularities committed during the selection and appointment. The petitioner was fully qualified for appointment to the post of Record Clerk. The roster system was not followed and therefore, the appointment order passed by the 2nd respondent is to be quashed.

4. Even in such case, the 2nd respondent Secretary of the School issued the order of appointment. A statutory remedy is provided under the Tamil Nadu Private Schools (Regulation) Act, 1973. Thus, the petitioner would have exhausted the statutory remedy provided under the Act. With reference to the recruitment Rules, the manner in which the 3rd respondent was appointed as well as the procedures followed ought to be established through the documents as well as by examining the witnesses. The enquiry is to be conducted with reference to the procedures followed for appointment of the 3rd respondent. However, such an enquiry cannot be conducted by the High Court under Article 226 of the Constitution of India. Thus, the petitioner has to exhaust the statutory remedy provided under the Act, by filing an appeal before the competent authorities.

5. In the present case, the petitioner instead of approaching the competent authority for enquiry, filed the writ petition and such question of facts and circumstances cannot be adjudicated in a writ petition. Under these circumstances, the relief as such sought for deserves no merits consideration at this length of time. Even at the time of filing of the writ petition, the petitioner was aged about 31 years now he would be around 46 years. The writ petition stands dismissed. However, the petitioner is at liberty to approach the competent authorities by filing an appeal, if the cause exists as of now. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CRL SIDE)

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/ /2020

Sub Assistant Registrar(CS)



To

The District Educational Officer,
Se.Va.Govt.Higher Secondary School Campus,
Tuticorin.

+1 CC to M/s.GP (SR-19881[F] dated 13/10/2020)

W.P. (MD) No.5581 of 2012
12.10.2020

SRK (CO)
TR(21.10.2020) 3P 3C