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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Friday, the Eleventh day of September Two Thousand and Twenty
PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
AND

The Hon`ble Mr.Justice P.RAJAMANICKAM

CMP(MD). No.4020 of 2020

in

WA(MD) SR 11461 of 2020

1. The District Elementary Educational Officer,
Tirunelveli District
 2. The Additional Assisant Elementary Educational Officer,
Nanguneri, Tirunelveli District ... Petitioners/Appellants
- . Vs.

- 1 G. Sumathi Thangapackiam
No.9/2008, West Street, Karunkadal,
Tuticorin District- 628 613.
- 2 The Correspondent,
T.D.T.A Primary School, Perumbath,
Tirunelveli District. ... Respondents / Respondents

Prayer in CMP(MD) No.4020 of 2020 :

This Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 313 days in filing the writ appeal SR 11461 of 2020 against the order dated 15.03.2019 passed in WP(MD)No.42 of 2018.

Prayer in WA (MD) SR.11461 of 2020 :

This Writ Appeal filed under Clause 15 of Letters Patent, pleased to set aside the order dated 15.03.2019 passed in W.P.(MD) No.42 of 2018.

ORDER:- This Miscellaneous Petition coming up for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mrs.S.Srimathy, Special Government Pleader, for Petitioners and of Thiru.V.Paneerselvam, Advocate for the respondents, this Court made the following order:

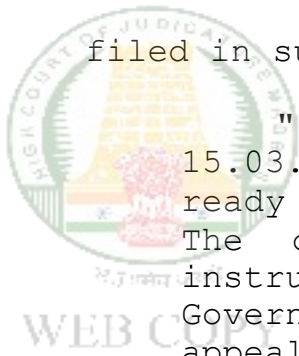
O R D E R

(Order of this Court was made by **M.SATHYANARAYANAN, J**)

This petition has been filed to condone the delay of 313 days in filing the Writ Appeal.

<https://hcservices.ecourts.gov.in/hcservices/>

2.It is relevant to extract paragraph No.11 of the affidavit



filed in support of the petition:

"I respectfully submit that the order was passed on 15.03.2019 in W.P.(MD) No.42 of 2018, the copy was made ready on **00.00.2019** and the copy was issued on **00.00.2019**. The copy was received on **00.00.2019**. Thereafter on instructions an opinion was sought from the Special Government Pleader whether this is a fit case for filing appeal. It is submitted that the Special

Government Pleader has opined that the case is fit for appeal and was pleased to direct the officials to file an appeal. After obtaining the legal opinion of the Special Government Pleader, sincere efforts were taken to file the appeal petition as early as possible. Hence there was delay and the delay is neither willful nor wanton, but for the aforesaid reasons. Therefore in the interest of justice the delay ought to be condoned."

3.It appears that the District Educational Officer, Valliyoor, who sworn the affidavit has failed to apply his mind to the contents of the affidavit filed in support of the petition.

4.Call on 22.09.2020 for filing better affidavit and on that day, the District Educational Officer, Valliyoor, shall appear in person, through video conference.

Sd/-

Assistant Registrar (CSIII)

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/ /2020

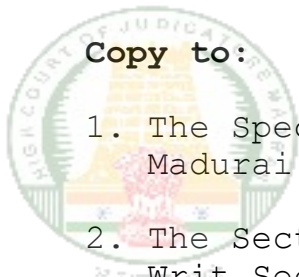
Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Educational Officer, Valliyoor
2. The Additioanl Assistant Elementary Educational Officer, Nanguneri, Tirunelveli District



Copy to:

1. The Special Govt. Pleader,
Madurai Bench of Madras High Court, Madurai
2. The Section Officer,
Writ Section,
Madurai Bench of Madras High Court, Madurai

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ORDER DATED : 11/09/2020

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ORDER
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CMP(MD) . No.4020 of 2020
in

WA SR (MD) No.11461 of 2020

Giving direction and etc.
as stated within.

KB(16.09.2020) 3P 5C