



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)Nos.703, 770 and 771 of 2020

and

C.M.P(MD)Nos.4162, 4391 and 4392 of 2020

W.A(MD)No.703 of 2020:

- 1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. George Fort, Chennai - 9.
- 2.The Director of School Education,
College Road, Chennai - 6.
- 3.The Chief Education Officer,
Tirunelveli District, Tirunelveli.
- 4.The District Educational Officer,
Tirunelveli District, Tirunelveli.

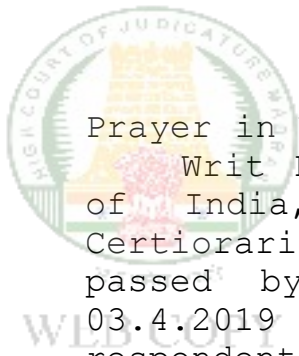
... Appellants / Respondents 1 to 4

-Vs-

- 1.Jeyanthi Prema ... 1st Respondents/ Writ Petitioner
- 2.The Correspondent,
Mary Sargent Girls Higher Secondary School,
Palayamkottaia, Tirunelveli District.
... 2nd respondent / 5th respondent

For Appellants : Mrs.S.Srimathy,
Special Government Pleader
For R-1 : Mr.S.Chellapandian

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 22.10.2019 passed in W.P(MD)No.20761 of 2019.



Prayer in WP(MD). 20761 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of writ of Certiorarified Mandamus Call for the records in respect of order passed by the 4th respondent in O.Mu.No.694/AA3/2019 dated 03.4.2019 and quash the same and consequently direct the 4th respondent to approve the appointment of petitioner as office Assistant at 5th respondent school and disburse all the service and monetary benefits from 3.1.2019 to the petitioner.

W.A(MD)Nos.770 and 771 of 2020:

- 1.The Chief Education Officer,
Theni District.
- 2.The District Educational Officer,
Uthamapalayam, Theni District.

... Appellants in W.A(MD)Nos.770 & 771 of 2020 /
Respondents 1 & 2
vs.

Pachayappa High Schools,
Rep. by its Secretary P.G.Lakshmivasan,
Uppukottai, Bodinayakkanur Taluk,
Theni District.

... Respondent in W.A(MD)Nos.770 & 771 of 2020 /
writ petitioner

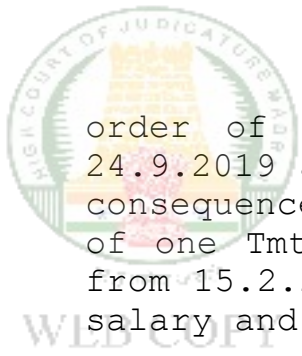
COMMON PRAYER IN W.A(MD)Nos.770 and 771 of 2020: Writ Appeals filed under Clause 15 of the Letters Patent Act, against the orders dated 20.11.2019 passed in W.P(MD)Nos.21121 and 21123 of 2019.

Prayer in WP(MD). 21121 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of writ of Certiorarified Mandamus Calling for the records relating with the order of the 2nd respondent made in O.Mu.No.2585/A2/2019 dated 24.9.2019 and quash the same as it is arbitrary and illegal and in consequence to direct him/her to approve forthwith the appointment of one Chandrasekara Saraswathyraja as Record Clerk in the petitioner school with effect from 15.2.2018 with all attended benefits including the arrears of salary and allowance.

Prayer in WP(MD). 21123 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of writ of Certiorarified Mandamus Calling for the records relating with the



order of the 2nd respondent made in O.Mu.No.2583/A2/2019 dated 24.9.2019 and quash the same as it is arbitrary and illegal and in consequence to direct him/her to approve forthwith the appointment of one Tmt.Poun, as Sweeper in the petitioner school with effect from 15.2.2018 with all attended benefits including the arrears of salary and allowance.

(In both Writ Appeals)

For Appellants : Mrs.S.Srimathy,
Special Government Pleader

For Respondent : Mr.R.Suriya Narayanan

COMMON JUDGMENT

[Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.,**]

W.A(MD)No.703 of 2020:

The official respondents 1 to 4 in W.P(MD)No.20761 of 2019, are the appellants.

2. The first respondent / writ petitioner has filed the said writ petition praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the fourth appellant / fourth respondent dated 03.04.2019 and quash the same with a consequential direction, directing the said respondent to approve her appointment as an Office Assistant in the services of the second respondent / fifth respondent school and disburse all service and monetary benefits w.e.f. 03.01.2019.

3. It is the case of the first respondent / writ petitioner that she was appointed as an Office Assistant on 03.01.2019 in the services of the second respondent school in the place of one Arasi Annie, who was transferred and promoted on 02.01.2019 and with regard to her appointment, the second respondent school sent a proposal to the fourth appellant / fourth respondent on 05.02.2019, seeking approval with effect from 03.01.2019 and also disburse the grant-in-aid towards salary. However, the fourth appellant / fourth respondent has rejected the said proposal vide order dated 03.04.2019, stating that in terms of 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 also restrained the schools from filling up such Posts. The writ petitioner made a challenge to the said proceedings by filing the writ petition and it was entertained and the learned Judge has taken note of the fact that with regard to the matter in issue, this Court has also entertained W.P(MD)No.13404 of 2019, wherein this Court has



granted interim orders dated 14.06.2019, has allowed the writ petition and by making a challenge to the same, the present writ appeal is filed.

W.A(MD)No.770 of 2020:

4. The official respondents in W.P(MD)No.21121 of 2019 are the appellants.

5. The respondent / writ petitioner made a challenge to the proceedings of the second appellant / second respondent dated 24.09.2019, in and by which, they refused to give approval for the appointment of one Chandrasekara Saraswathyrāja, who was appointed as Record Clerk in the respondent / writ petitioner school with effect from 15.02.2018.

6. It is the case of the respondent / writ petitioner that the said person was appointed as Record Clerk on 15.02.2018 in the place of one Krishnan, who had retired from service on 31.05.2010. The proposal sent to the second appellant / second respondent to approve the appointment was not considered and therefore, the respondent / writ petitioner filed W.P(MD)No.6508 of 2018 and this Court vide order dated 20.03.2019, directed the respondent / writ petitioner to submit a copy of the proposal to the second appellant / second respondent and accordingly, it was submitted and it came to be rejected vide the impugned proceedings of the second appellant dated 24.09.2019.

7. The writ petition was entertained and the learned Judge, by taking note of the fact that this Court had entertained a similar issue in W.P(MD)No.11895 of 2019 and granted interim order of status-quo dated 15.05.2019, has allowed the writ petition and making a challenge to the same, the present writ appeal is filed.

W.A(MD)No.771 of 2020:

8. The official respondents in W.P(MD)No.21123 of 2019 are the appellants.

9. The respondent / writ petitioner filed W.P(MD)No.21123 of 2019, to call for the records relating to the proceedings of the second appellant / second respondent dated 24.09.2019, with a consequential direction to approve the appointment of one Poun as Sweeper in the services of the respondent / writ petitioner school with effect from 15.02.2018.

10. It is the case of the respondent / writ petitioner that the School Committee has appointed one Poun on 15.02.2018 in the place of one Palani, who had retired from service on 31.05.2010 and the proposal submitted in this regard to the second



appellant / second respondent dated 25.02.2018, seeking approval, was not considered and therefore, the respondent / writ petitioner filed W.P(MD)No.6510 of 2018 for approving the appointment and this Court vide order dated 20.03.2019, had permitted the respondent / writ petitioner to submit a copy of the proposal to the second appellant / second respondent, with a further direction to pass appropriate orders and despite submission of the same, the said request for approval has been rejected erroneously by the second appellant / second respondent vide the impugned proceedings dated 24.09.2019 and by making a challenge to the same, the respondent / writ petitioner filed the writ petition.

11. The learned Judge by taking note of the fact that in a similar challenge made in W.P(MD)No.11895 of 2019, this Court vide order dated 15.05.2019 has granted order of status-quo, has allowed the writ petition and aggrieved by the same, this writ appeal is filed.

12. The learned Special Government Pleader appearing for the appellants in all these writ appeals would contend that if at all the learned Judge had found out a *prima facie* case in the light of the orders passed in W.P(MD)No.11895 of 2019 as well as W.P(MD) No.13104 of 2019, the learned Judge ought to have granted interim orders and the main writ petition cannot be allowed for the reason that there is likelihood of dismissal of the writ petitions also in which the above cited interim orders are passed and hence, prays for interference.

13. Per contra, the learned counsel appearing for the respondents / writ petitioners would contend that the learned Judge has taken note of the infirmities in the impugned order rejecting the proposal for approval of the appointment and has rightly interfered with the same and prays for dismissal of these writ appeals.

14. This Court has carefully considered the rival submissions made and also perused the materials placed before it.

15. It is a well settled position of law that interim orders are granted to maintain status-quo to protect the interest of the parties pending disposal of the writ petition and it cannot be the basis to allow the main writ petition. As rightly pointed out by the learned Special Government Pleader, there is likelihood of dismissal of the writ petitions with a consequential order for vacating the interim orders also.

16. In the light of the above facts and circumstances and the reasons assigned above, the impugned orders passed in the writ



17. In the result, the writ appeals are partly allowed and the order dated 22.10.2019 passed in W.P(MD)No.20761 of 2019 and the orders dated 20.11.2019 passed in W.P(MD)Nos.21121 and 21123 of 2019 respectively, are set aside and the writ petitions are once again remanded to the Honourable Single Bench for disposal. In the circumstances of the case, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

18. The Registry is directed to accord priority for earlier listing and hearing for the writ petitions.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

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.

COPY TO
The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.SPL GP (SR-17150, 17158[F] dated 16/09/2020)

Judgment in
W.A(MD)Nos.703, 770 & 771 of 2020
15.09.2020

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TR(30.09.2020) 6P 3C