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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2020

CORAM :

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

W.P. (MD) No.16337 of 2018

and

W.M.P. (MD) Nos.14517 & 14516 of 2018

The Correspondent,
St.James High School,
Parakunnu, Vanniyoor,
Kanyakumari District-629 163.

: Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai-600 006.

2.The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District.

3.The District Educational Officer,
Kuzhithurai, Kanyakumari District.

: Respondents

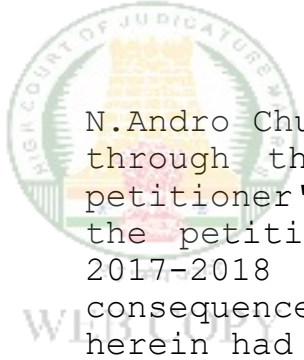
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the second respondent Chief Educational Officer in O.Mu.No.280/Aa1/2018, dated 12.03.2018 and the consequential proceedings of the third respondent District Educational Officer in A.Thi.Mu.No.3782/A3/2018 dated 22.03.2018, quash the same and further direct the second and third respondents to approve forthwith the appointment of N.Andro Churchill as BT Assistant (History) in the petitioner's school w.e.f., the date of his appointment viz., 17.02.2017 and disburse the grant-in-aid towards his salary and allowances.

For Petitioner	: Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers
For Respondents	: Mr.A.Thiyagarajan, Government Advocate

ORDER

The petitioner herein is a minority institution. When they had sought for approval of the appointment of the post of BT Assistant (History) which vacancy was filed through a candidate namely,

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



N.Andro Churchil, with effect from 17.02.2017, the second respondent through the impugned proceedings dated 12.03.2018, returned the petitioner's proposal stating that there are two surplus posts in the petitioner's school, as per the staff fixation for the year 2017-2018 and therefore, approval cannot be considered. In consequence to the second respondent's order, the third respondent herein had returned the petitioner's proposal on 22.03.2018.

2.The petitioner claims that the stand taken by the respondents that there are two surplus posts is factually incorrect and therefore, they have given their objections on 11.04.2018.

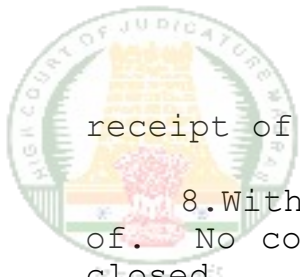
3.However, without consideration of the said objections, the third respondent had once again on 30.04.2018 returned the proposal stating that earlier remarks made in proceedings dated 22.03.2018 were not complied with.

4.The objections raised by the petitioner with regard to the original impugned order, dated 12.03.2018 is to the effect that two surplus posts claimed by the respondents are factually incorrect. When the petitioner had raised these specific objections, there was duty a cast on the respondents to consider such objections while rejecting the petitioner's stand. On the contrary, in the second impugned order, dated 22.03.2018 passed by the third respondent herein, there seems to be no reference to the objections at all. As such it can only be said that the impugned order, dated 22.03.2018 is a non-speaking order.

5.Though the petitioner herein has raised several other grounds to substantiate that the respondents are bound to grant approval to the said post, the learned counsel for the petitioner would submit that the petitioner would be satisfied, if a direction is issued to the third respondent to consider the earlier objections submitted on 11.04.2018 in its letter and spirit.

6.I do not find any prejudice that would be caused to the respondents for reconsideration of the objections and therefore, it would be appropriate to remand back the matter to the third respondent for fresh consideration of the objections. The petitioner is at liberty to give fresh objections also.

7.The impugned order dated 22.03.2018 is therefore set aside and the matter is remand back to the third respondent for fresh consideration of the petitioner's objections dated 11.04.2018. The petitioner is at liberty to give fresh objections. Such representation along with copy of this order shall be submitted atleast within a period of 7 days from the date of receipt of a copy of this order. On such submission of the representation, if any, the third respondent herein shall consider the same and pass a speaking order, within a period of four weeks from the date of



receipt of the representation.

8. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(WRITS)

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Sub Assistant Registrar(CS)

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To

1. The Director of School Education,
College Road, Chennai-600 006.

2. The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District.

3. The District Educational Officer,
Kuzhithurai, Kanyakumari District.

+1 CC to M/s.SPL.GP (SR-8078[F] dated 25/02/2020)

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-8488[F] dated 26/02/2020)

W.P. (MD) No.16337 of 2018
24.02.2020

BUC (CO)

TR(12.03.2020) 3P 6C