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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 15496 of 2021

A.Bhuvaneswari

.. Petitioner

Versus

1. The Secretary to Government,  
School Education Department,  
F.S.G., Secretariat,  
Chennai - 600 009.
2. Director of School Education,  
Chennai - 600 006.
3. Chief Educational Officer,  
Chennai - 600 015.
4. Correspondent,  
Kesari Higher Secondary School,  
Old No.9, New No.17/1,  
Ropettah High Road III Street,  
Mylapore, Chennai - 600 004.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for records pertaining vide proceedings OM No.5998/A6/2019 dated 20.01.2021 issued by the third respondent and quash the same and direct the third respondent to approve the petitioner's appointment as Record Clerk in fourth respondent school from the date of appointment and disburse the attendant benefits to the petitioner.

For Petitioner : Mr. R.Subramanian

For Respondents 1-3 : Mr. C.Kathiravan  
Government Advocate

O R D E R

This writ petition is filed to quash the proceedings in OM No.5998/A6/2019 dated 20.01.2021, issued by the third respondent



and direct the third respondent to approve the petitioner's appointment as Record Clerk in fourth respondent school from the date of appointment and disburse the attendant benefits to the petitioner.

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2. The petitioner was appointed in the fourth respondent school which is stated to be a linguistic minority school. It is stated by the petitioner that she was selected as Record Clerk and that she joined the school on 03.10.2016 as Record Clerk. Even though the petitioner has submitted a proposal for approval of appointment, it is stated that the respondents have not considered the proposal under one pretext or other. However, by the impugned order, the proposal submitted by the fourth respondent was rejected only by referring to G.O. Ms. No.238, School Education Department, dated 13.11.2018. Hence the petitioner has filed the present writ petition.

3. From the facts admitted and set out in the affidavit filed in support of this petition, it is not the case of the respondents that the post was sanctioned after G.O. Ms. No.238 or that the petitioner was appointed to a new post. The post of Record Clerk in the fourth respondent institution is a sanctioned post and that the vacancy also arose long before the issuance of G.O. Ms. No. 238. It has been held in several judgements of this Court that the appointment which was made prior to the Government Order cannot be considered in the light of G.O. Ms. No.238 dated 13.11.2018. When an appointment is made against vacancy which fell long before issuance of G.O. Ms. No.238, it cannot be turned down by citing G.O. Ms. No.238 dated 13.11.2018.

4. In view of the settled legal position as held by this court in number of judgments, this writ petition is allowed. The impugned order passed by the third respondent dated 20.01.2021, is hereby quashed. The third respondent is directed to approve the petitioner's appointment as Record Clerk in the fourth respondent's school, from the date of his appointment and the third respondent shall disburse the attendant benefits with effect from the date of appointment. No costs.

Sd/-  
Assistant Registrar (CS-V)

// True Copy//

Sub Assistant Registrar

bkn



To

1. The Secretary to Government,  
School Education Department,  
F.S.G., Secretariat,  
Chennai - 600 009.
2. The Director of School Education,  
Chennai - 600 006.
3. The Chief Educational Officer,  
Chennai - 600 015.

+1cc to Mr.R.Subramanian, Advocate, S.R.No.37214

+1cc to the Government Pleader, S.R.No.37366 (15/09/2021)

W.P. No. 15496 of 2021

PMK (CO)  
SU (27/08/2021)