



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.15794 of 2021

and

W.M.P (MD) .Nos.15667 and 12725 of 2021

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M.Lal Bahadur Kennedy

... Petitioner

Vs .

- 1.The Director of Elementary Education,
O/o. The Director of Elementary Education,
DPI Campus, College Road,
Chennai.
- 2.The Chief Educational Office,
O/o. The Chief Educational Office,
Sena.Vana.Government Higher Secondary School Campus,
Tuticorin.
- 3.The Chief Educational Officer,
O/o. The Chief Educational Officer,
ICI Government Higher Secondary School,
Tenkasi,
Tenkasi District.
- 4.The District Educational Office,
O/o.the District Educational Office,
Kovilpatti Educational District,
VOC Government Higher Secondary School Campus,
Kovilpatti,
Tuticorin District.
- 5.The District Educational Office,
O/o.the District Educational Office,
Thoothukudi Educational District,
Having Office at Pudhukottai,
Tuticorin.
- 6.The District Educational Office,
O/o.the District Educational Office,
Sankarankovil Educational District,
Gomathi Government Higher Secondary School Campus,
Sankarankovil,
Tenkasi District.



7.R7.D.Augustin,
S/o.Devakirubai,
No.2/202, SBM Street,Naalatinputhur,
Kovilpatti-628716.
Thoothukudi District.

(R7 is impleaded vide Court order dated 16.12.2021 in WMP(MD)
No.15667 of 2021 in WP(MD)No.15794 of 2021 by CVKJ)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents 1 to 6 from insisting upon the approval to post of Secretary cum Correspondent for the Minority Schools run by the Kovilpatti Tamil Baptist Schools Association.

For Petitioner	:	Mr.T.Lajapathi Roy
For R-1 to R-6	:	Mr.S.Kameswaran, Government Advocate.
For R-7	:	Mr.Vinoharan for Mr.G.Prabhu Rajadurai.

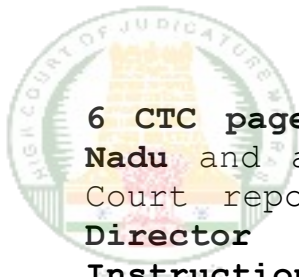
ORDER

The Writ Petition has been filed in the nature of Mandamus seeking a restraint against the respondents 1 to 6 from insisting upon the approval for the post of Secretary cum Correspondent for the Minority Schools run by the Kovilpatti Tamil Baptist Schools Association.

2. In the affidavit filed in support of the Writ Petition, it had been stated that the writ petitioner, is a member of the Kovilpatti Tamil Baptist Schools Association from the year 2002. The said Association had been registered in the year 1956. The schools run by the Association are religious minority institutions. The petitioner is also the Correspondent of the schools run by the institution. It had been stated that the respondents, particularly the District Educational Officer of Kovilpatti had placed an embargo on the further functioning of the management by insisting on approval year after year with respect to the post of Secretary cum Correspondent.

3. Heard Mr.T.Lajapathi Roy, learned counsel for the petitioner and Mr.S.Kameswaran, learned Government Advocate who takes notice on behalf of the respondents.

4. It is the contention of Mr.T.Lajapathi Roy, learned counsel for the petitioner that such insistence runs contrary to the judgment of a learned Single Judge of this Court reported in **(2009)**



6 CTC page 579, Asan Memorial Association Vs. The State of Tamil Nadu and also of a further judgment of a Division Bench of this Court reported in **(2012) 2 CWC page 25, T.Sanjeewa Rao Vs. The Director of School Education, Directorate of School/Public Instruction College Road, Chennai - 6 and others.**

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5. The issue is no longer *res integra*. With respect to minority schools, the respondents particularly the District Educational Officer cannot insist on a year to year approval every successive year for the post of Secretary cum Correspondent.

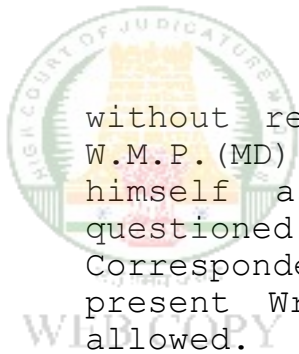
6. A counter had been filed by the fourth respondent and it is encouraging to note that they had also realized the position. In the counter which had been filed by the District Educational Officer, Kovilpatti / A.Chinnaraju, dated 03.12.2021, it had been stated as follows:

"5. I submit that upon the enquiry it was found that the Kovilpatti Tamil Baptist Schools Association is a Minority institution and there is no requirement under the statue for a school committee as only the previous management had constituted a school committee and approval has been obtained from the District Educational Officer in the previous years and the said act has been done out of inadvertence.

6. I respectfully submit that the answering respondent has not insisted for approval as there is no mandate to obtain the Approval for the post of Secretary and Correspondent to the said Minority school and hereby undertake that we do not insist upon the approval to post of Secretary cum Correspondent for the Minority Schools run by the Kovilpatti Tamil Baptist Schools Association."

7. Since, the said respondent had realized that year to year approval for the post of Secretary cum Correspondent should not be insisted upon and would not be insisted upon and would desist from passing any further orders, an obligation is placed on the respondents to maintain the position, to maintain the rule of law, to be subject to the orders passed by this Court in similar matters and not insist upon the approval for the post of Secretary cum Correspondent year to year particularly from minority institutions. I am confident that the respondents would adhere to such position which they have themselves affirmed in the counter affidavit. This Writ Petition stands allowed. There shall be no order as to costs.

8. W.M.P.(MD).No.15667 of 2021 had been filed seeking to implead the petitioner herein as the seventh respondent in the Writ Petition. It is stated that the Writ Petition had been filed



without reference to earlier Writ Petitions. The petitioner in W.M.P.(MD).No.15667 of 2021 / D.Augustin, who seeks to implead himself as the seventh respondent in the Writ Petition has questioned the right of the petitioner therein to hold the post of Correspondent. That is an issue which is beyond the purview of the present Writ Petition. However, the impleading application is allowed.

9. The Registry may implead D.Augustin as the seventh respondent and thereafter issue order copy. Let me make it very clear that the dispute between the respective petitioner and D.Augustin is not examined in this Writ Petition but this Writ Petition is only focused on the officials in recognizing and approving the post of Secretary cum Correspondent, which is only for the benefit of the institution as a whole and not with respect to any individual.

10. Clarifying as above, the Writ Petition is allowed. W.M.P.(MD).No.15667 of 2021 is allowed. Consequently, W.M.P.(MD).No.12725 of 2021 is closed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

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Sub Assistant Registrar(CS)

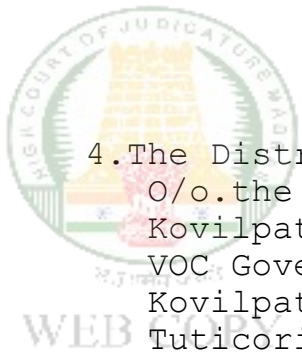
Lm/Nsr

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

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ICI Government Higher Secondary School,
Tuticorin.

<https://hcservices.mca.gov.in/Services>



4.The District Educational Officer,
O/o.the District Educational Office,
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Sankarankovil,
Tenkasi District.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-39232[F] dated
17/12/2021)

+1 CC to M/s.SPL GP (SR-39280[F] dated 17/12/2021)

**W.P. (MD) .No.15794 of 2021
and**

**W.M.P (MD) .Nos.15667 and 12725 of 2021
16.12.2021**

MGJ(21.01.2022) 5P 9C