



WEB COPY

W.A(MD)No.2145 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A(MD)No.2145 of 2021

and

CMP(MD)No.10164 of 2021

1)The Director of School Education,
DPI Campus,
College Road, Chennai.

2)The Joint Director of School Education
(Higher Secondary),
DPI Campus,
College Road, Chennai.

3)The Chief Educational Officer,
Tuticorin District.

4)The District Educational Officer,
Tuticorin District.

... Appellants

vs.

1)S.R.Chandru Manikandan

2)Karapettai Nadar Higher Secondary School,
Tuticorin,
Rep by its Secretary,
N.T.Selvaraj,
Tuticorin District.

... Respondents

Appeal filed under Clause XV of Letters Patent, against the order dated 12.07.2021 made in W.P(MD)No.37 of 2021.

Prayer in WP(MD). 37/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Certiorarified Mandamus, calling for the records of the impugned order passed by the 3rd Respondent herein in his proceedings in Na.Ka.No.5881/Aa4/2019 dated 09.12.2020 and quash the same as illegal and further direct the 3rd and 4th Respondents herein to approve the Petitioners appointment as Office Assistant in Karapettai Nadar Higher Secondary School, Tuticorin with effect from 11.6.2018.

For Appellants	: Mr.M.Siddharthan Additional Government Pleader
For R1	: Mr.V.Meenakshisundaram for Mr.G.Mohankumar

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



JUDGMENT

(Judgment of the Court was made by
PUSHPA SATHYANARAYANA, J.)

The appeal is by the Government, challenging the order passed in W.P(MD)No.37 of 2021, dated 12.07.2021.

2. The writ petition was filed challenging the order of the 3rd appellant dated 09.12.2020, wherein, the approval of the appointment of the writ petitioner as Office Assistant, in the 2nd respondent school, was rejected. The writ petitioner was appointed as Office Assistant on 11.06.2018. A proposal was sent to the appellants for approval. As there was no order passed, the writ petition was filed, seeking a Mandamus, for considering the same, after which, the same was considered and the 3rd appellant rejected the proposal, on the ground of non approval of the Secretary of the school and the list of candidates furnished by the employment exchange. The said rejection was challenged in a writ petition.

3. In the meanwhile, there was some dispute with regard to the post of Secretary in the 2nd respondent school and there were writ petitions filed in W.P(MD)Nos.19905 and 19906 of 2017 and there was an interim order granted by this Court. The request of the school to furnish the list of candidates, was rejected by the employment exchange, on the ground that there was no Secretary in the 2nd respondent school. Therefore, a notification was issued in the daily newspaper and the 2nd respondent conducted interview and appointed the writ petitioner, who is the 1st respondent herein, as Office Assistant.

4. Against the dismissal of the Writ Petition(MD)Nos.19905 and 19906 of 2017, Writ Appeal(MD)Nos.1711 and 1712 of 2018 were filed. The said appeals were decided on 08.05.2019 and the writ appeals were allowed, as the erstwhile Secretary himself, who contested in the election, was elected again as Secretary in the 2nd respondent school and the said Secretary had appointed the writ petitioner as Office Assistant. Therefore, when the Secretary was in the office, the said appointment was made. The Writ Court had allowed the writ petition.

5. In fact, in the judgment of the writ appeals, the question of the powers of the Secretaries when the order of interim stay in force, was also discussed, which was relied upon by the learned single Judge and allowed the writ petition. Therefore, the objection raised by the Government that the approval for appointment made by the Secretary, who was not in office, is erroneous and the said argument is not sustainable, as already the Division Bench held that the appointment made by the Secretary was valid.



6. We see no reason to interfere in the order passed by the learned single Judge. The Writ Appeal deserves to be dismissed and accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1)The Director of School Education,
DPI Campus,
College Road, Chennai.

2)The Joint Director of School Education (Higher Secondary),
DPI Campus,
College Road, Chennai.

3)The Chief Educational Officer,
Tuticorin District.

4)The District Educational Officer,
Tuticorin District.

+1 CC to M/s.G.MOHAN KUMAR, Advocate (SR-37078[F]
dated 02/12/2021)

+1 CC to M/s.SPL GP (SR-37055[F] dated 02/12/2021)

JUDGMENT MADE IN
W.A(MD)No.2145 of 2021
DATED : 01.12.2021

SK(CO)

GC(13.12.2021) 3P 7C