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W.A.No.1538 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.No.1538 of 2018 and

CMP No.12411 of 2018

1. The Headmaster,
P.T.Lee Chengalvaraya Naicker
Higher Secondary School, Choolai,
Chennai 600 112.
2. The Secretary, P.T.Lee Chengalvaraya Naicker
Higher Secondary School Committee and
P.T.Lee Chengalvaraya Naicker Trust,
No.2/3, E.V.K.Sampath Salai,
Vepery, Chennai 600 007.

... Appellants

Vs.

1. S.Vasudevan
2. The Joint Director of Higher Secondary School,
Chennai 600 006.
3. The Chief Educational Officer,
Saidapet, Chennai 600 015.
4. The District Educational Officer (North),
Egmore, Chennai 600 008.

... Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 25.11.2016 in W.P.No.7106 of 2009 on the file of this Court.

For Appellants : Mr. E.Manoharan

For Respondents : Mr.M.Elumalai

for Mr.Ayyadurai for R1

Mr.L.S.M.Hasam Fizal, Addl. Govt. Pleader
for R2 to R4

J U D G M E N T

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

Challenging the order passed by the Writ Court in W.P.No.7106 of 2009 dated 25.11.2016, this intra Court Appeal has been filed.

2. The brief facts for filing the present appeal are as follows.

The respondent herein/writ petitioner was appointed as Record Clerk in the appellants' School on 30.08.2004, on consolidated pay of Rs.2,000/- per month and subsequently, his pay was revised in the time scale of pay at Rs.2,400/- per month, by resolution dated 29.09.2006. Thereafter, the writ



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petitioner was ousted from service on 30.04.2009, for want of vacancy.

Challenging the above order, the writ petitioner filed a writ petition in W.P.No.7106/2009 and this Court, vide order dated 25.11.2016 has quashed the above termination order with some directions, which is extracted hereunder.

13. In these circumstances, this Court is of the view that the writ petition can be disposed of with the following directions.

1. The impugned order passed without assigning any reason cannot be termed as legally sustainable and therefore, the same is quashed.
2. The fifth respondent shall forward a necessary proposal, as per the procedure established under the Tamil Nadu Recognized Private School (Regulation) Act, 1973 and the rules made there under, for sanction of post of Record Clerk, within a period of four weeks from the date of receipt of a copy of this order.
3. On such proposal being received from the fifth respondent, respondents 1 and 2 shall consider the same and take a decision for sanctioning the post of Record Clerk, taking into account the strength of students as well as classes conducted by the fifth respondent school, within a period of two months thereafter.
4. Once the post is sanctioned, the petitioner can continue in the same post. In the meanwhile, the petitioner, who is continuing in the post of Record Clerk, by virtue of the interim



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order granted by this Court, shall not be disturbed till a decision is taken by the respondents 1 and 2. The Writ petition is allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

Challenging the above order, the School management has preferred the present appeal.

3. The learned counsel appearing for the appellants/school management submitted that, due to lack of students, three +2 groups were closed and since the writ petitioner was appointed temporarily as Record Clerk, he was ousted from service on 30.04.2009. He further submitted that, as per the order passed by the Writ Court, the school management had submitted necessary proposal for sanctioning the post of 'Record Clerk'. However, the Educational Authorities have rejected the proposal, as there is no sufficient students in the School for sanctioning the said post. It is also submitted by him that as of now, the appellant School is running with XI and XII Standard with self financing and for the Academic year 2022-2023, one Junior Assistant Post and one Office Assistant Post alone were sanctioned for non teaching staffs. Therefore, there is no necessity for the appellant to get approval from the official respondents for the post of “



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Record Clerk” and also to give re-employment to the writ petitioner. As such, the order of the Writ Court may be set aside.

4. Mr.Elumalai learned counsel appearing for the first respondent/ writ petitioner submitted that based on the direction given by this Court, if any proposal is submitted by the school management, it is for the authorities concerned to sanction the post of Record Clerk. However, since the post of Record Clerk was not sanctioned by the authorities concerned, in view of inadequate students, liberty may be granted to the writ petitioner to approach the school management for any employment.

5. The learned Additional Government Pleader appearing for the respondents 2 to 4 submitted that since the appellants School is running with inadequate students for the XI and XII Standard, the post of Record Clerk was not sanctioned and the proposal sent by the School management was rejected. He also placed a letter dated 22.01.2018 sent by the District Educational Officer, North Chennai to the Special Counsel, High Court before this Court. He further submitted that during the Academic Year



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2022-2023, as per the strength of students in XI and XII Standard, one Junior Assistant post and one Office Assistant post alone were sanctioned as Non Teaching Staffs to the appellant School. Therefore, as per the strength of students, the post of Record Clerk, cannot be granted and hence, appropriate order may be passed.

6. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the first respondent and the learned Additional Government Pleader appearing for the respondents 2 to 4.

7. A perusal of the letter dated 22.01.2018 sent by the District Educational Officer, North Chennai shows that, during the Academic year 2016-2017 and 2017-2018, the appellants school was functioning with the aid of government for the Classes VI to X standard and functioning without any aid of government for the Classes XI and XII Standard. Further, during the year 2017-2018, total strength of students for VI to X Standard was only 71. Further, in the letter dated 12.12.2022 sent by the Chief Educational Officer, Egmore, Chennai to the Secretary of the appellant



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school, sanctioned posts for teaching staffs are shown in Annexure 1(a) and non teaching staffs are shown in Annexure 1(aa). As per the above letter, for the Academic Year 2022-2023, one Junior Assistant Post and one Office Assistant post alone were sanctioned for non teaching staffs.

8. From the materials placed before this Court, it is clear that the appellants school is not having adequate strength from the Academic Year 2016-2017 to 2022-2023 for sanctioning the post of Record Clerk, as per the Government norms. The letter dated 22.01.2018 sent by the District Educational Officer, North Chennai and the letter dated 22.12.2022 sent by the Chief Educational Officer, Egmore, Chennai, also disclose the above fact. In such circumstances, the management of the School is not required to submit a proposal for sanctioning the post of Record Clerk and hence, we are of the view that the order passed by the learned Single Judge is liable to be set aside.

9. Accordingly, the Writ Appeal is allowed and the order passed by



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the Writ Court dated 25.11.2016 in W.P.No.7106/2009 is set aside.

Consequently, connected miscellaneous petition is closed. Liberty is granted to the writ petitioner to approach the school management for any employment, and it is for them to consider him, if there is any requirement.

(D.K.K.J.)

(K.G.T.J.)

31.03.2023

Index : Yes/No

Internet : Yes/No

mst

To

1. The Joint Director of Higher Secondary School,
Chennai 600 006.
2. The Chief Educational Officer,
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