



W.P.Nos. 10525 of 2021 and batch,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

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W.P.Nos. 10525, 13526, 13528, 18409, 19207, 19903 of 2020
and 7517, 8923, 8931, 11379, 13242, 13334, 13717, 13774, 14573, 14576,
14719, 14998, 15491, 15652, 16638, 16647, 17128, 17674, 18770, 18776,
18782, 18791, 18798, 18983, 19175, 19181, 20853, 23170 of 2021
and
WMP.Nos. 12779, 18657, 18663, 18664, 16749, 16750, 16741, 16742, 16743,
16744, 16748, 22812, 17240, 23796, 23797, 23799, 24573, 24575 of 2020
and , 8036, 8038, 9456, 9457, 9461, 9462, 12054, 12056, 14047, 14048, 14163,
14164, 14558, 14560, 14621, 14622, 15466, 15470, 15622, 15624, 15881, 16419,
16420, 16550, 16552, 17635, 17636, 17644, 17645, 21056, 18147, 18148, 18838,
18842, 20073, 20075, 20081, 20083, 20064, 20065, 20066, 20068, 20086, 20088,
20243, 20244, 20475, 20476, 20479, 20480, 22117, 22118, 24466 & 24467 of
2021

P.J. Jennifer

... Petitioner in WP.No.10525 of 2021

/vs/

1. The Govt. of Tamil Nadu
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai -9.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-6.
3. The Chief Educational Officer
The Office of the Chief Educational Officer
Kongu Reddy Salai Egmore,
Chennai- 600 008



W.P.Nos. 10525 of 2021 and b...n,

4. District Educational Officer - Chennai East
The Office of the District Educational Officer
Chennai-600 005

5. The Correspondent
C.S.I. Anderson Rajagopal Girls' Higher Secondary School
219, Thambu Chetty Street
Chennai-600 001

...

Respondents

PRAYER in WP.No.10525 of 2021: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 13.11.2018 in G.O.Ms.No. 238, School Education [Pa. Ku. 6(1)] Department, on the file of the 1st respondent and the consequential impugned proceeding, dated 10.08.2020 in O. Mu. No.081/AA2/2019, on the file of the 4th respondent and quash the same and to direct the respondents to accord approval to the appointment of the petitioner, P.J.Jennifer, working as Junior Assistant in the 5th respondent school in C.S.I. Anderson Rajagopal Girls' Higher Secondary School, 219, Thambu Chetty Street, Chennai-600 001, w.e.f. 20.12.2018, with all service and monetary benefits.

In WP.10525/2021

For Petitioner : Mr.Father Xavier , Senior Counsel for
Ms. Arul Mary

In all WPs.,

For Respondents : Mr.S.Sillambannan,
Additional Advocate General assisted by
Mr.T.Chezhiyan, Additional Government Pleader



COMMON ORDER

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The Writ Petition in WP.No.10525 of 2020 has been filed seeking to quash the impugned orders dated 13.11.2018 in G.O.Ms.No. 238, School Education [Pa. Ku. 6(1)] Department, on the file of the 1st respondent and the consequential impugned proceeding, dated 10.08.2020 in O. Mu. No.081/AA2/2019, on the file of the 4th respondent and to direct the respondents to accord approval to the appointment of the petitioner, P.J.Jennifer, working as Junior Assistant in the 5th respondent school in C.S.I. Anderson Rajagopal Girls' Higher Secondary School, 219, Thambu Chetty Street, Chennai-600 001, w.e.f. 20.12.2018, with all service and monetary benefits.

2. Heard, the submissions made by either side learned counsels and perused the materials available on record.

3. The petitioner in W.P.No.10525 of 2020 was appointed as Junior Assistant at C.S.I. Anderson Rajagopal Girls' Higher Secondary School in Chennai, India, on 20.12.2018. The school, established by the C.S.I Diocese of



Madras, is one of the oldest in the city and has a student strength of 398 and a staff strength of 21. The school was sanctioned with a post of Junior Assistant due to the retirement of Mrs. G.Agnes Katharine Shanthakumari on 31.10.2018. The petitioner was selected and appointed on 20.12.2018 F.N. by the school's Educational Agency on 10.12.2018. The 5th respondent forwarded the proposal for approval on 02.01.2019. The staff fixation report for 2017-2018 endorsed the school's eligibility to have a post of Junior Assistant post. But 2018-2019 staff-fixation report dated 24.11.2018 would show the said post as surplus and vacant and the same is factually incorrect. The petitioner is currently working in the 5th respondent's school as a Junior Assistant from 20.12.2018.

4. Mr.Father Xavier, the learned counsel for the petitioners submitted that there are statutory sanction for some of the post like Record Clerk, Office Assistant, Gardener, Night Watchman, Waterman and Sweepers, but the Government has restricted such posts by way of giving the impugned Government Order.



5. As per the impugned Government Order, out of 11 total posts, only three posts are retained and the rest of the posts are either abolished or outsourced. In pursuant to the said Government Order, some of the petitioners in the batch of Writ Petitions are either persons who have already been working in those capacities or are schools that have incumbents working in those capacity, which have been abolished by the Government pursuant to G.O.Ms.No.238, School Education Department dated 13.11.2018. Aggrieved by the said Government Order, Writ Petitions have been filed to quash the Government Order and restore their position to anti-Government Order and not to deploy them.

6. The posts which have been approved by the statutes have been abolished by the issuance of the administrative Government Order which is not permissible. The impact of the Government Order as per the some of the learned counsels for the petitioners is that it will bind only upon the Schools which get the grant from the Government and not applicable to the minority Institutions. However, some of the learned counsels for the petitioners have taken a different view that the Government Order is uniformly applicable to both the schools which get grant in aid and minority schools. Similar Government Orders which have been passed in



the same line of the impugned Government Order have already been quashed by this Court.

7. However, Mr.S.Silambannan, the learned Additional Government Pleader appearing for the respondents submitted that the impugned Government Order has already been upheld by this Court and the learned Division Bench has passed an order by staying the order of the learned Single Judge, in the Writ Appeal in W.A.No.816 of 2023. The first respondent has taken some constructive steps for working out the possibility of accommodating the petitioners either in the Rural or in local body office. However, it came to be known that such arrangement is feasible and hence, the Government might consider the pros and cons of the issue and would take a decision.

8. The learned counsel for the petitioners in W.P.Nos. 13526 & 13528 of 2020 submitted that G.O.Ms.No.238, School Education Department dated 13.11.2018 does not make any mention about the Laboratory Attender. Though the petitioner's appointment for Laboratory Assistant is made on 06.11.2019 was not approved by the respondents 3 and 4. The other reason for declining approval

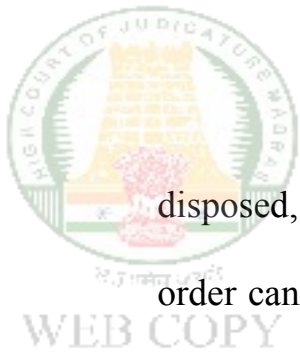


W.P.Nos. 10525 of 2021 and batch,

is that prior approval has not been obtained by the petitioner pursuant to G.O.Ms.No.101. School Education Department dated 18.05.2018.

9. Mr.S.Silambannan, further submitted that the posts are sanctioned only in accordance with the reasonable demand related to the strength of students and all other circumstances and nexus to the object sought to be achieved by these institutions. Even though the posts were originally sanctioned by virtue of the Tamil Nadu Private Schools Act-1974, the sanction of the posts are given only through the government orders. When ever there are change in circumstances like reduction in the strength of students and then, the government has to revised the required staff strength and only during that exercise this government order has been issued.

10. Further in CMP(MD) No.6675 & 6677 of 2023 in WA.(MD)No.816 of 2023 dated 14.06.2023, filed before the Hon'ble Division Bench of Madurai Bench of this High Court, has stayed the operations G.O.Ms.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018. Unless the Writ Appeal is



W.P.Nos. 10525 of 2021 and batch,

disposed, no order either by upholding or by rejecting the impugned government order can be passed. Hence I feel these writ petitions can be disposed subject to the outcome of the Writ Appeals. It goes without saying that the respondents would give approval if the Writ Appeal is dismissed. As the operation of the G.O.Ms.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018 has been stayed, the petitioners do not have any difficulty to enjoy the status quo in WMP.Nos. 18664, 16749, 16742, 16743, 23797, 24575 of 2020 and 8038, 9457, 9462, 12056, 14048, 14164, 14558, 14621, 15466, 15470, 15881, 16552, 17636, 17645, 18148, 18842, 20075, 20083, 20065, 20068, 20088, 20244, 20476, 20480, 22118 of 2021, till the disposal of the writ appeal in WA.(MD)No.816 of 2023.

11. In view of the stated reasons and observations these group of Writ Petitions are disposed. No costs. Consequently, other connected miscellaneous petitions are closed.

06.12.2023

Index : Yes
Internet : Yes/No
jrs



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W.P.Nos. 10525 of 2021 and batch,

To

1. The Govt of Tamil Nadu
Rep by the Secretary,
School Education Department,
Fort St. George, Chennai - 9.
2. The Principal Accountant General
(Accounts & Entitlements) Tamilnadu,
361, Annasalai, Chennai 600018.
3. The Director of Elementary Education,
College Road, Nungambakkam,
Chennai 600 006.
4. The District Educational Officer
Mathur, Poachampalli (Taluk),
Krishnagiri District.
5. The Block Educational officer,
Mathur, Pochampali Taluk,
Krishnagiri District.



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W.P.Nos. 10525 of 2021 and batch,

R.N.MANJULA, J.

jrs

W.P.Nos. 10525 of 2021 and batch,
WMP.Nos.12779 of 2020 & 8036 of 2021 and batch

06.12.2023