



W.P.No.20866 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20866 of 2021

and

W.M.P.Nos.22130, 22132 and 22133 of 2021

R.Deepa,
St.Alosysius Girls Higher Secondary School,
Dharapuram – 638 656,
Fort St.George,
Chennai – 600 009.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
5th Floor, Tirupur Collectorate,
Tirupur District – 641 604.



W.P.No.20866 of 2021

WEB COPY

4. The District Educational Officer,
The Office of the District Educational Officer,
6th Floor, Tirupur Collectorate,
Tirupur District – 641 606.

5. The Correspondent,
St.Alosysius Girls Higher Secondary School,
Dharapuram – 638 656,
Fort St.George,
Chennai – 600 009.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned staff fixation for the year 2017-2018, dated 25.09.2016, in Na.Ka.No.5906/A4/2017, on the file of the third respondent and consequential proceedings dated 28.06.2019 in Na.Ka.No.2662/A2/2019, on the file of the fourth respondent and quash the same and directing the respondents to accord approval to the appointment of the petitioner, namely, R.Deepa, working as Waterwoman in St.Alosysius Girls Higher Secondary School, Dharapuram – 638 656, with effect from 13.07.2018, with all monetary and other service benefits.

For Petitioner	:	Father Xavier Arul Raj Senior Counsel for Father Xavier Associates
For Respondents	:	Mr.S.Silsmbanan Additional Advocate General – II Assisted by Mr.M.Babu Barveez Government Advocate



W.P.No.20866 of 2021

WEB COPY

ORDER

Challenging the impugned staff fixation dated 25.09.2016 of the third respondent and the consequential proceedings of the fourth respondent dated 28.06.2019 and for a direction to the respondents to approve the appointment of one Deepa, as Waterwoman, the petitioner is before this Court.

2. The case of the petitioner is that the petitioner is working in the fifth respondent School, which is a Christian Minority Institution. While so, one post of Waterman felt vacant due to retirement of the then incumbent, one Palani on 30.04.2016. Hence, the petitioner was appointed as Waterman with effect from 13.07.2018 in the fifth respondent School. The fifth respondent School submitted necessary proposal to the fourth respondent / District Educational Officer for approving her appointment. The third respondent issued impugned staff fixation report dated 25.09.2016, wherein the third respondent stated that when the post of Waterman felt vacant, it should not be filled. The staff fixation for the year 2018-2019 and 2019-2020 hold the post of Waterman as surplus. The fifth respondent



W.P.No.20866 of 2021

WEB COPY

resubmitted the proposal requesting that the appointment of the petitioner in the sanctioned post has to be considered. But the fourth respondent vide proceedings dated 28.06.2019 returned the proposal without approval of the appointment of the petitioner.

3.Vide order dated 07.02.2023 in W.P.(MD)No.13428 of 2020, the learned Single Judge of this Court upheld the validity of G.O.(Ms)No.238, School Education [Pa.Ku.6(1)] Department, dated 13.11.2018. However, the order returning the proposal pertaining to the appointment will have to be interfered with. Since the petitioner was appointed on 13.07.2018, i.e., well before the issuance of G.O.(Ms)No.238, dated 13.11.2018.The said Government Order cannot operate retrospectively. The Hon'ble Division Bench vide order dated 06.12.2020 in W.A.(MD)No.1052 of 2020 had taken such a view. The school Management is permitted to re-submit the proposal to the fourth respondent within a period of four weeks from the date of receipt of a copy of this order. The fourth respondent is directed to consider the same without reference to G.O (Ms) No.238, dated 13.11.2018 and



W.P.No.20866 of 2021

WEB COPY

appropriate order on merits and in accordance with law will be passed within a period of eight weeks after re-submission of the proposal.

4. With the above observation, this Writ Petition is disposed of.

No costs. Consequently connected Miscellaneous Petition is closed.

05.06.2023
(2/2)

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji



W.P.No.20866 of 2021

To
WEB COPY

1. The Principal Secretary,
The Government of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai – 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai – 600 006.
3. The Chief Educational Officer,
The Office of the Chief Educational Officer,
5th Floor, Tirupur Collectorate,
Tirupur District – 641 604.
4. The District Educational Officer,
The Office of the District Educational Officer,
6th Floor, Tirupur Collectorate,
Tirupur District – 641 606.
5. The Correspondent,
St.Alosysius Girls Higher Secondary School,
Dharapuram – 638 656,
Fort St.George,
Chennai – 600 009.



WEB COPY



W.P.No.20866 of 2021

M.DHANDAPANI,J.

vji

**W.P.No.20866 of 2021
and
W.M.P.Nos.22130, 22132 and 22133 of 2021**

**05.06.2023
(2/2)**