



W.P(MD)No.5968 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.11.2022

Pronounced on : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5968 of 2022

and

W.M.P.(MD)No.4674 of 2022

The Correspondent
St.Aloysius Girls Higher Secondary School,
Thoothukudi-628 001.

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by its Principal Secretary,
Department of School Education,
Fort St.George, Madras-600 009.
- 2.The Director of School Education,
DPI Campus, College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Thoothukudi District.
- 4.The District Educational Officer,
Thoothukudi,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the third respondent



W.P(MD)No.5968 of 2022

herein in O.Mu.No.7143/Aa4/2018, dated 03.02.2020, quash the same and further direct the third respondent herein to approve the appointment of P.Motcha Mary Rathi Pushpa as Record Clerk in the petitioner school w.e.f 01.06.2018 with salary and other attendant benefits.

For Petitioner : Mr.A.Ajith Geethan

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.S.Shaji Bino
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner school is a minority institution. Proposal for approving Ms.P.Motcha Mary Rathi Pushpa's appointment was submitted on 01.06.2018. Citing G.O.(Ms) No.238, School Education Department, dated 13.11.2018, the proposal was returned. Questioning the said Government Order as well as the consequential proceedings, the present writ petition has been filed.

3.Vide order dated 07.02.2023 in W.P.(MD)No.13428 of 2020, I had upheld the validity of G.O.(Ms) No.238, dated 13.11.2018. However, the order returning the proposal pertaining to the petitioner's appointment will have to be interfered with. The petitioner was appointed on 01.06.2018 ie., well before the



W.P(MD)No.5968 of 2022

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. I, therefore, set aside the order passed by the third respondent. The school management is permitted to resubmit the proposal to the fourth respondent. The respondents 3 and 4 are directed to consider the same without reference to G.O.(Ms) No.238, dated 13.11.2018 and appropriate order on merits and in accordance with law will be passed within a period of six weeks after re-submission of the proposal.

4.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2023

Index : Yes / No
Internet : Yes/ No
rmi/SKM

To

- 1.The Principal Secretary,
Department of School Education,
Fort St.George, Madras-600 009.
- 2.The Director of School Education,
DPI Campus, College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Thoothukudi District.



W.P(MD)No.5968 of 2022

4.The District Educational Officer,
Thoothukudi,
Thoothukudi District.

G.R.SWAMINATHAN, J.



WEB COPY



W.P(MD)No.5968 of 2022

rmi/SKM

W.P(MD)No.5968 of 2022

08.02.2023