



W.P(MD)No.5966 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.11.2022

DELIVERED ON : 17.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5966 of 2022

and

WMP(MD)No.4673 of 2022

M.Faustina

... Petitioner

Vs

- 1.The State of Tamil nadu,
Rep.by the Principal Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.
- 2.The Director of School Education,
College Road, Chennai – 600 006.
- 3.The Chief Educational Officer, Thoothukudi District.
- 4.The District Educational Officer,
Tiruchendur, Thoothukudi District.
- 5.The Correspondent,
St.Mary's Middle School,
Manapad, Thoothukudi District – 628 209.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the fourth respondent herein in



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Na.Ka.No.2785/A3/2021 dated 03.12.2021 quash the same and further direct the third respondent herein to approve the petitioner's appointment as Record Clerk in the fifth respondent school w.e.f., 04.07.2018 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 was appointed as Record Clerk in the fifth respondent school which is a minority institution. The school management sent proposal for approving the petitioner's appointment to the fourth respondent. The proposal was returned. Challenging the same, this writ petition has been filed.

3.Vide order dated 07.02.2023 in W.P.(MD)No.13428 of 2020, I upheld the validity of G.O.(Ms) No.238 dated 13.11.2018. However, the order returning the proposal pertaining to the appointment will have to be interfered with. The petitioner was appointed on 04.07.2018 ie., well before the issuance of G.O.(Ms) No.238, dated 13.11.2018. The said Government Order cannot



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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. Even while sustaining the impugned order, I set aside the impugned order passed by the fourth respondent. The school management is permitted to resubmit the proposal to the District Educational Officer, Thoothukudi District. 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.

17.03.2023

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

SKM

To

1.The he Principal Secretary, Department of School Education,
Fort St.George, Chennai – 600 009.

2.The Director of School Education, College Road, Chennai – 600 006.

3.The Chief Educational Officer, Thoothukudi District.

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



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G.R.SWAMINATHAN, J.

SKM

Pre-delivery Order made in
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17.03.2023