



W.P(MD)No.8763 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8763 of 2021

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... Petitioner

Vs.

- 1.The State of Tamil Nadu
Represented by its Secretary
Department of School Education,
Fort St.George,
Chennai-600 009.
- 2.The Director of School Education,
College Road,
Chennai-600 009.
- 3.The Chief Educational Officer,
Madurai,
Madurai District.
- 4.The District Educational Officer,
Melur,
Madurai District.
- 5.The Correspondent,
O.C.P.M Girls Higher Secondary School,
Tallakulam,
Madurai-625 002.

... Respondents



W.P(MD)No.8763 of 2021

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 relating to the impugned Government Order issued by the first respondent in G.O.Ms.No.64, School Education (Pa.Ka.6(1)) Department, dated 03.04.2018 and the consequential impugned proceeding issued by the third respondent CEO in O.Mu.No.10954/A4/2019, dated 13.03.2020 and the subsequent impugned proceeding issued by the fourth respondent DEO in O.Mu.No.9153/A4/2019, dated 23.07.2020, quash the same and further direct the third respondent Chief Educational Officer herein to approve forthwith the petitioner's appointment as Scavenger in the fifth respondent school w.e.f. 01.11.2018 with salary and all attendant benefits from the said date.

For Petitioner : Mr.Henri Tiphagne

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader for R1 to R4

ORDER

The writ petitioner was appointed as Scavenger by the management of the fifth respondent school on 01.11.2018. The proposal was submitted to the competent authority for approving the said appointment. The competent authority rejected the proposal by citing G.O.Ms.No.64, School Education Department, dated 03.04.2018. Challenging the rejection order dated 23.07.2020, the present writ petition has been filed.



W.P(MD)No.8763 of 2021

WEB COPY

2. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

3. The respondents 1 to 4 have filed detailed counter affidavit. The learned Additional Government Pleader took me through its contents and he pressed for dismissal of the writ petition.

4. I carefully considered the rival contentions and went through the materials on record. The impugned order rests entirely on G.O.Ms.No. 64, School Education Department, dated 03.04.2018. I went through the contents of the said G.O. It is seen that the said G.O does not pertain to filling up the vacancies in the post of scavenger. On this sole ground, the order impugned in the writ petition has to be set aside. The petitioner in her affidavit had established that her appointment was made against a sanctioned post. This assertion has not been controverted in the counter affidavit. The fifth respondent is a minority institution receiving aid from



W.P(MD)No.8763 of 2021

the State. It is a girls school. It is stated that as many as 5600 children are studying in the school. Obviously, such an institution would require the services of the scavenger. It is specifically stated in the affidavit filed in support of the writ petition that the petitioner came to be appointed following the retirement of one Rajammal. In as much as the appointment of the petitioner is against a sanctioned post, the proposal submitted by the management could not have been rejected. No other reason have been set out in the impugned order. Reliance is placed on G.O.Ms.No.238, School Education Department, dated 13.11.2018. The appointment was on 01.11.2018, ie., prior to the issuance of G.O.Ms.No. 238, School Education Department, dated 13.11.2018. Therefore, neither the ground set out in the impugned order nor the ground adduced in the counter affidavit will come to the rescue of the respondents 1 to 4.

5. In this view of the matter, the order impugned in the writ petition is set aside. The fifth respondent is directed to re-submit the proposal to the competent authority as expeditiously as possible. After receipt of the same, the competent authority is directed to approve the petitioner's appointment and also disburse the salary grant towards the



W.P(MD)No.8763 of 2021

petitioner's salary. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6. The Writ Petition is allowed. No costs.

01.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

5/6



WEB COPY



W.P(MD)No.8763 of 2021

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W.P(MD)No.8763 of 2021

01.06.2023