

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 13.03.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.13491 of 2020**

**and**

**W.M.P(MD)No.11248 of 2020**

The Correspondent,  
Ringletaube Higher Secondary School,  
Mulaudy – 629 403,  
Kanyakumari District.

... Petitioner

Vs

- 1.The State represented by  
Its Secretary to Government,  
School Education Department,  
Secretariat,  
Chennai – 9.
- 2.The Director of School Education,  
College Road,  
Chennai.
- 3.The Chief Educational Officer,  
Nagercoil,  
Kanyakumari District.
- 4.The District Educational Officer,  
Nagercoil,  
Kanyakumari District.

... 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 on the file of the third respondent pertaining to its proceedings in Original Return Decision No.2885/E4/2020 dated 09.09.2020 and to quash the same and consequently directing the respondents to approve the appointment of one N.Y.Jerald Singh Das as record clerk with effect from his date of appointment that is 01.03.2018 and to grant all the service and monetary benefits in consequent to the same within a time frame that may be fixed by this Court by considering the proposal resubmitted by the petitioner dated 11.09.2020.

For Petitioner : Mr.S.C.Herold Singh  
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 School Management is a petitioner before this Court. It appointed one N.Y.Jerald Singh Das as record clerk with effect from 01.03.2018. The Management sent proposal for approving his appointment. Citing GO(Ms)No. 238 School Education Department dated 13.11.2018, the proposal was returned. Questioning the same, the present 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 01.03.2018 ie., 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. I, therefore, set aside the order passed by the third respondent. The school management is permitted to re-submit the proposal pertaining to the appointment of the petitioner to the third 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. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**13.03.2023**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
MGA

To

- 1.The Secretary to Government,  
School Education Department,  
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Chennai – 9.
- 2.The Director of School Education,  
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G.R.SWAMINATHAN, J.

MGA

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