



W.P(MD)No.13303 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.11.2022

DELIVERED ON : 08.02.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13303 of 2022

and

W.M.P(MD)Nos.9447 & 9448 of 2022

N.Paul Christy

... Petitioner

vs.

1.The Commissioner of School Education,
Chennai.

2.The Chief Educational Officer,
Virudhunagar District.

3.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.

4.The Correspondent,
C.M.S. Higher Secondary School,
Srivilliputhur,
Virudhunagar 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 pertaining to the order passed by the second respondent in his proceedings in Ne.Mu.No.9910/A1/2018 dated 01.11.2021 and Quash the same and direct the respondents to approve the appointment of the petitioner from the date of



W.P(MD)No.13303 of 2022

appointment i.e., 12.07.2018 as Record Clerk with salary and confer all the consequential benefits.

For Petitioner : Mr.V.Panneer Selvam

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 in the fourth respondent school as Record Clerk on 12.07.2018. The fourth respondent school is a minority institution. It sent proposal for approving the petitioner's appointment to the second respondent. Citing G.O.(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 12.07.2018 ie., well before the issuance of G.O.(Ms) No.238, dated 13.11.2018. The said Government Order cannot



W.P(MD)No.13303 of 2022

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 second respondent. The school management is permitted to resubmit the proposal pertaining to the petitioner's appointment to the second respondent. The second respondent is 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 petitions are closed.

08.02.2023

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

To

- 1.The Commissioner of School Education, Chennai.
- 2.The Chief Educational Officer, Virudhunagar District.
- 3.The District Educational Officer, Srivilliputhur, Virudhunagar District.
- 4.The Correspondent, C.M.S. Higher Secondary School, Srivilliputhur, Virudhunagar District.



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W.P(MD)No.13303 of 2022

G.R.SWAMINATHAN, J.

MGA/skm

Pre-delivery Order made in
W.P(MD)No.13303 of 2022

08.02.2023