



W.P(MD)No.16781 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.11.2022

DELIVERED ON : 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16781 of 2022

and

W.M.P(MD)Nos.12164 & 12165 of 2022

The Correspondent,
Sirumalar Girls Higher Secondary School,
Nagamalai-625 019,
Madurai District.

... Petitioner

Vs.

1.The Director of School Education,
College Road,
Chennai-600 006.

2.The Chief Education Officer,
Madurai, Madurai District.

3.The District Educational Officer,
Tirumangalam, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent CEO in O.Mu.No.3272/A5/2020 dated 15.09.2020 and the consequential proceedings of the third respondent DEO in Na.Ka.No.7752/A3/2019 dated



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27.10.2020, quash the same and direct the third respondent DEO to approve forthwith the appointment of R.Jeyaprabhu as Watchman in the petitioner school w.e.f., 01.11.2019 with all attendant benefits including the arrears of salary and allowance, and pass such further or other suitable order / orders as this Court.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

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

ORDER

Heard both sides.

2.The petitioner is an aided minority school. The post of Watchman fell vacant on 01.02.2008. The incumbent retired on 31.01.2008. The post was however not filled up. Only on 01.11.2019, one R.Jeyaprabhu was appointed. Seeking approval of the same, proposal was submitted. The Chief Educational Officer, Madurai vide proceedings dated 15.09.2020 returned the proposal on the ground that prior approval was not obtained and that if there are surplus staff in the District, the vacancy must be filled up only by deploying the surplus staff. Challenging the same, this writ petition came to be filed.



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3. 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 grant relief as prayed for.

4. In this case, the stand of the department is right. But then, there is no averment that on 01.11.2019, such surplus posts were available in the District. The District Educational Officer, Thirumangalam has also like parrot repeated the stand of the Chief Educational Officer, Madurai. The impugned proceedings are clearly vitiated by non-application of mind. Therefore, it is set aside. The matter is remitted to the file of the third respondent. The third respondent has to find out if surplus posts were available as on 01.11.2019. If surplus posts were available, then, the next step is to find out where there are surplus posts presently available in the District. If as of now, there is no surplus post available in the post of Watchman in the District, the case of the appointee R.Jeyaprabhu has to be reconsidered. It is for the respondents 2 and 3 to take a call in the matter. If there is no surplus post of Watchman available either on 01.11.2019 or now, a favorable order shall be passed notwithstanding the fact that prior permission was not obtained.



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G.R.SWAMINATHAN, J.

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5.With this direction to the respondents 2 and 3 to reconsider the issue, this Writ Petition is disposed of. No costs. Connected miscellaneous petitions are closed.

08.02.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Skm

To

1.The Director of School Education,
College Road,
Chennai-600 006.

2.The Chief Education Officer,
Madurai, Madurai District.

3.The District Educational Officer,
Tirumangalam, Madurai District.

Pre-delivery Order made in
W.P(MD)No.16781 of 2022

08.02.2023