



W.P(MD)No.17334 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.11.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17334 of 2023

and

W.M.P(MD)No.14528 of 2023

Kammavar Hindu High School,
Represented by its Secretary P.Rajeswaran.

... Petitioner

Vs.

1.The Director of School Education,
O/o. The Director of School Education,
DPI Complex, Nungambakkam,
Chennai.

2.The District Educational Officer (Secondary),
O/o. The District Educational Officer,
Tenkasi,
Tenkasi District.

... Respondents

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 order passed by the 2nd respondent vide his proceedings in ஐ.மு.எண்.1045/அ2/2023, dated Nil. 04.2023 and quash the same as illegal and consequentially to direct the respondents to approve the appointment of one Mr.Sivanandham as “Office Assistant” with effect from 27.01.2023 and disburse all monetary benefits to him within the period that may be stipulated by this Court.



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For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

The present writ petition has been filed by an aided non-minority School seeking to quash the order of the 2nd respondent, wherein the request of the management for approval of the appointment of Office Assistant has been rejected.

2. The petitioner School management has appointed one Sivanandham as Office Assistant on 27.01.2023 and sent a proposal to the 2nd respondent on the same day to approve his appointment. Vide the impugned proceedings, the 2nd respondent has rejected the approval on the ground that in view of litigations pending touching upon G.O.Ms.No. 238 School Education Department, dated 13.11.2018, the approval cannot be granted. This order is under challenge in the present writ petition.

3. According to the learned counsel appearing for the writ petitioner, even as per G.O.Ms.No.238 School Education Department,



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dated 13.11.2018, the School is entitled to appoint one Office Assistant even if the student strength is below 250. The learned counsel for the petitioner further relied upon the staff fixation order for the academic year 2022-23, wherein one Office Assistant post has been sanctioned to the petitioner School.

4. The learned counsel for the petitioner further brought to the notice of the Court that G.O.Ms.No.238, dated 13.11.2018 has been stayed by the High Court. In view of the above said facts, the 2nd respondent was not right in rejecting the request for approval.

5. Per contra, the learned Government Advocate appearing for the respondents had contended that in view of the stay order granted by this Court, the 2nd respondent may be directed to re-consider the said impugned order.

6. The order impugned in the writ petition has been passed solely on the ground that litigations relating to G.O.Ms.No.238 School Education Department, dated 13.11.2018 are pending. In the present case, the staff fixation of the year 2022-23 for the petitioner School



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clearly reflects that they are entitled to appoint an Office Assistant. That apart, even assuming that G.O.Ms.No.238 is applicable to the petitioner school, the petitioner School is entitled to appoint one Office Assistant.

7. In the light of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 2nd respondent herein to pass fresh orders in the light of the observations made above.

8. With the above said observations, this Writ Petition stands allowed to the extent as stated above. No costs. Consequently, connected Miscellaneous Petition is closed.

02.11.2023

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

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R.VIJAYAKUMAR,J.

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Order made in
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Dated:
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