



W.P(MD)No.19993 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.11.2022

Pronounced on : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19993 of 2022

and

W.M.P.(MD)Nos.14556 & 14555 of 2022

The Correspondent,
St.Mary's Higher Secondary School,
Madurai-625 001, Madurai District.

... Petitioner

Vs.

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

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

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

... 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 proceedings passed by the second respondent CEO in O.Mu.No.8524/Aa4/2020 dated 24.12.2020 and the consequential proceedings of the DEO in O.Mu.No.3621/Aa1/2021 dated 22.02.2021 and O.Mu.No.2886/Aa1/2021 dated 20.12.2021 and quash the same as illegal and



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void and further direct the second respondent CEO to approve forthwith the appointment of T.Sivakumar as Record Clerk in the petitioner school w.e.f 08.11.2018 with all attendant benefits including the arrears of salary and allowance.

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

For Respondents : Mr.R.Baskaran, Additional Advocate General
assisted by Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner school is a minority institution. It sent proposal for approving the appointment of one T.Sivakumar, Record Clerk to the third respondent. Citing G.O.(Ms) No.238, School Education Department, dated 13.11.2018, the proposal was returned.

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 08.11.2018 ie., well before the issuance of G.O.(Ms) No.238, dated 13.11.2018. The said Government Order cannot



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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 impugned orders. The school management is permitted to resubmit the proposal to the third respondent. The respondents 2 and 3 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. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

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, District Educational Office, Madurai.



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G.R.SWAMINATHAN, J.

SKM

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08.02.2023