



W.P(MD)No.21121 of 2019

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.21121 of 2019

Pachayappa High School,
rep. By its Secretary P.G.Lakshmivasan
Uppukottai, Bodinayakkanur Taluk,
Theni District.

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Theni District.
- 2.The District Educational Officer,
Uthamapalayam,
Theni 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 with the order of the second respondent made in O.Mu.No. 2585/A2/2019 dated 24.09.2019 and quash the same as it is arbitrary and illegal and in consequence to direct him / her to approve forthwith, the appointment of one Chandrasekara Saraswathyraja as Record Clerk in the petitioner school with effect from 15.02.2018 with all attended benefits including the arrears of salary and allowance.



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For Petitioner : Mr.R.Suriya Narayanan

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 Mr.Chandrsekara Saraswathyraja to the second respondent. Citing G.O.(Ms) No.238 School Education Department, dated 13.11.2018, the proposal was returned. Questioning the said Government Order as well as the consequential proceedings, 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. Mr.Chandrasekara Saraswathyraja was appointed on 15.02.2018 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



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view. I, therefore, set aside the order passed by the second respondent. The school management is permitted to resubmit the proposal pertaining to the appointment of Mr.Chandrasekara Saraswathyraja to the second respondent. The respondents 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 petition is closed.

08.02.2023

Index : Yes / No
Internet : Yes/ No
SKM

To

- 1.The Chief Educational Officer,
Theni District.
- 2.The District Educational Officer,
Uthamapalayam, Theni District.



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G.R.SWAMINATHAN, J.

SKM

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