



W.P.(MD).No.22775 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 07.11.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.22775 of 2022

and

W.M.P(MD) Nos.16919, 16920 of 2022 and 22524 of 2023

K.Sathish Kumar,  
Office Assistant,  
RM.P.S.Ramaiah Nadar Higher Secondary School,  
Athipatti Post,  
Peraiyur Taluk,  
Madurai District.

... Petitioner

Vs.

1. The Commissioner of School Education,  
Office of the Commissioner of School Education,  
DPI Compound, College Road,  
Chennai.
2. The Chief Educational Officer,  
Office of the Chief Educational Office,  
Madurai, Madurai District.
3. The District Educational Officer,  
Office of the District Educational Office,  
Usilampatti, Madurai District.
4. The District Educational Officer,  
Office of the District Educational Office,  
Madurai, Madurai District.



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5. The Secretary,  
RM. P.S.Ramaiah Nadar,  
Higher Secondary School,  
Athipatti Post, Peraiyur Taluk,  
Madurai District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka.No.4719/A3/2021, dated 21.09.2022 passed by the third respondent and quash the same as illegal and consequentially to direct the fourth respondent to approve the appointment of the petitioner in the post of Office Assistant with effect from 01.11.2021 within the period that may be stipulated by this Court.

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

For Respondents : Mr.V.Om Prakash  
Government Advocate  
for R1 to R4

: No appearance – for R5

### **ORDER**

The present writ petition has been filed by an Office Assistant appointed in the fifth respondent's School which is the Non-Minority Aided



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School, challenging the order passed by the third respondent, wherein, his appointment was not approved.

2. According to the learned counsel appearing for the writ petitioner, the writ petitioner was appointed as an Office Assistant on 01.11.2021 and the School Management has forwarded the said appointment order for proposal to the third respondent herein. The third respondent by his impugned order, dated 21.09.2022 has rejected the said proposal on the following three grounds:

1. The School Management has not obtained prior approval from the District Educational Officer as contemplated under Rule 15(4) (ii) of the Tamil Nadu Recognized Private Schools (Regulations Rules) 1974;

2. The School Management has not obtained prior permission from the Chief Educational Officer before appointing the writ petitioner, in view of the G.O(Ms)No. 101, School Education Department, dated 18.05.2018; and

3. In view of G.O(Ms)No.165, School Education, Primary Education (2) (1), Department, dated 17.09.2019, before completion of redeployment, no new appointment should be effected.



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3. Challenging the said order, the present writ petition has been filed by the writ petitioner.

4. According to the learned counsel appearing for the writ petitioner, as far as the appointment of non-teaching staff are concerned, no prior permission is required to be obtained from any one of the educational authorities, in view of the judgement of the Hon'ble Division Bench of our High Court reported in ***2021 (6) CTC 594 (the Director of School Education, DPI Campus and two others Vs. S.Murugan and other)***. He further contended that G.O.(Ms)No.165, School Education Department, dated 17.09.2019 is applicable only to the teaching faculty and in the present case, the appointment of the petitioner being an Office Assistant, the said Government Order is not applicable to him. That apart, even as per G.O(Ms)No.238, School Education Department, dated 13.11.2018, they are eligible to appoint one Office Assistant, even if the students strength is less than 250. However, in the fifth respondent School, the present students strength is 1220. Therefore, they are eligible for appointment of an Office Assistant.



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5. Per contra, the learned Government Advocate appearing for the respondents 1 to 4 had contended that Rule 15(4) (ii) of Tamil Nadu Recognized Private School (Regulations Rules) 1974 specifically pointed out that they have to obtain prior permission. He further relied upon the G.O. (Ms)No.101, School Education (Budget-1) Department, dated 18.05.2018, wherein, the Chief Educational Officer of the particular District is the competent authority to accord prior permission for filling up of Teaching and Non-Teaching posts in Aided High and Higher Secondary Schools and to accord approval for the said posts. Hence, he prayed that the order impugned in the writ petition may be sustained.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

7. The Hon'ble First Bench judgment of our High Court reported in **2021 (6) CTC 594 (the Director of School Education, DPI Campus and two others Vs.S.Murugan and other)** has clearly indicated that as far as the Government Aided Schools are concerned, there are no Rules required in respect of Non-Teaching post to seek prior permission from the educational



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authorities. Once appointment process is undertaken, and suitable person is identified, the Department cannot refuse appointment citing surplus staffs.

8. In the present case, even as per G.O(Ms)No.238, School Education Department, the school would be entitled to one Office Assistant even if the students strength is less than 250. Therefore, the appointment of the writ petitioner as an Office Assistant in the present School can never consider as surplus.

9. As rightly pointed out by the learned counsel appearing for the petitioner, G.O(Ms)No.165, School Education Department, dated 17.09.2019, relates to the teaching staff and the said Government Order is not applicable to the present writ petitioner. That apart, as per G.O(Ms)No.238, School Education Department, dated 13.11.2018, the School is entitled to appoint one Office Assistant. The petitioner's School is admittedly a stand alone School and not a Corporate Management. Therefore, the question of re-deployment would not arise in the present case.



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10. In view of the above said deliberations, the order impugned in the writ petition is set aside and the third respondent is directed to approve the appointment of the writ petitioner as Office Assistant in the fifth respondent School from the date of initial appointment with all attendant monetary benefits. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

11. Accordingly, this Writ Petitions stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

**07.11.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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**R.VIJAYAKUMAR,J.**

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