



W.P.(MD).No.23168 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23168 of 2022

and

W.M.P(MD) No.17263 of 2022

National College Higher Secondary School,
Represented by its Secretary,
College Road, Chatram Bus Stand,
Tiruchirappalli – 620 002.

... Petitioner

Vs.

1. The Commissioner of School Education,
School Education Department,
D.P.I.Campus, College Road,
Chennai.
2. The Chief Educational Officer,
Office of Chief Educational Officer,
Madurai Road,
Trichy – 8.
3. The District Educational Officer,
Office of the District Educational Officer,
Old District Collector's Office Campus,
Cantonment, Trichy – 1.

... 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



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records relating to the impugned proceeding of the third respondent in Na.Ka.No.1646/A2/2022, dated ..07/2022 signed on 08.07.2022 and quash the same and consequently direct the respondents 2 and 3 to grant approval for non teaching staffs, enlisted to the writ petition:

SI.No	Name of Post	Name of Candidates	w.e.f
1	Junior Assistant	P.Mala	25.05.2018
2.	Junior Assistant	K.Alagar	25.05.2018
3.	Library Clerk	P.Punitha	25.05.2018
4.	Record Clerk	A.Parkavi	25.05.2018
5.	Office Assistant	K.Ragunathan	25.05.2018
6.	Office Assistant	S.Aravindhana	25.05.2018
7.	Office Assistant	D.Karhick	25.05.2018
8.	Sweeper	P.Karthick	25.05.2018
9.	Scavenger	P.Jayanthi	25.05.2018
10.	Waterman	R.Vasanth Kumar	25.05.2018

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.N.GA.Natraj
Government Advocate

ORDER

The present writ petition has been filed by an Aided Non-Minority Institution challenging the order, wherein, an appointment of 10 non-teaching staffs has not been approved.



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2. A perusal of the order impugned in the writ petition indicates that the rejection has been passed on the following grounds:

(a) A writ petition, challenging the staff fixation order for the academic year 2018 – 2019 and 2019 – 2020 is pending in W.P(MD) No.715 of 2021; and

(b) The appointments are made in violation of G.O.(Ms) No.238, School Education, dated 13.11.2018.

3. A learned Single Judge of this Court had disposed of W.P.(MD)No. 715 of 2021, on 30.11.2023 with the following observations. Paragraph Nos. 14 and 15 are extracted:

“14. It is clear from the above, orders that were relied upon that Government Order passed in G.O.(Ms) No.238, dated 13.11.2018 cannot have a retrospective effect. In the instant case, there is no dispute that the appointment was made on 25.05.2018, ie., much before the coming into force of G.O.(Ms)No.238, dated 13.11.2018. That apart, this Court must also take into consideration the earlier order that was passed in W.P(MD) No.17121 of 2020, dated 18.06.2021,



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wherein, the same issue was considered with respect to another School coming within the same management. The order passed in that writ petition was also complied with by the second respondent.

15. In the light of the above discussions, the impugned staff fixation orders, dated 06.06.2019 and 11.11.2019 issued by the second respondent for the years 2018-19 and 2019-20, are hereby quashed, insofar as declaring 10 posts of non-teaching staff as surplus. There shall be a direction to the second and third respondents to grant approval for the appointments made to 10 posts of non-teaching staff by the petitioner School w.e.f.25.05.2018 with all attendant and monetary benefits. This process shall be completed by the second and third respondents within a period of eight weeks from the date of receipt of copy of this order.

4. In view of the judgment of this Court in W.P(MD) No.715 of 2021, it is clear that G.O.(Ms) No.238, dated 13.11.2018 cannot be relied upon by the authorities for rejecting the approval for the appointment made prior to the said Government Order, namely 29.05.2018. That apart, the said writ petition has already been disposed of and therefore, there is no legal impediment for



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the authorities to approve the appointment on the strength of non-teaching staffs.

5. In view of the above said facts, the order impugned in the writ petition is set aside. The third respondent herein is directed to approve the appointment of 10 non-teaching staffs with effect from 25.05.2018 with all attendant benefits. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above said observations, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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

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