



W.P(MD)No.23475 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 03.11.2022

DELIVERED ON : 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.23475 of 2019
and
W.M.P(MD)Nos.20107 & 20108 of 2019**

The Correspondent,
St.Mary's Higher Secondary School,
Vickramasingapuram,
Tirunelveli District-627 425.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Government orders issued by the first respondent State Government in G.O.Ms.No.238, School Education (Pa.Ka.6(1) Department dated 13.11.2018 and the consequential staff fixation settled by the third respondent CEO for the academic year 2018-2019 in Na.Ka.No. 12315/A2/2018 dated 13.03.2019, in so far as rendering the post of Junior Assistant, Library Assistant and Waterman as surplus are concerned, quash the same and further direct the third and fourth respondents to approve forthwith the appointment of K.Agasthiyar as Junior Assistant in the petitioner school from the date of his appointment viz., 01.08.2018, with salary and all other attendant benefits.

For Petitioner : Mr.T.Cibi Chakraborty

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.S.Shaji Bino
Special 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.K.Agasthiyar as Junior Assistant to the



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fourth respondent. Citing G.O.(Ms) No.238, School Education Department, dated 13.11.2018, the proposal was returned. Consequential staff fixation was also made on 13.03.2019. 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.K.Agasthiyar was appointed on 01.08.2018 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 view. Even while sustaining the impugned orders, I set aside the order passed by the third respondent. The school management is permitted to resubmit the proposal pertaining to the appointment of Mr.K.Agasthiyar, Junior Assistant to the fourth respondent. The respondents 3 and 4 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.



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4.This writ petition is partly allowed. No costs. Consequently,
connected miscellaneous petitions are closed.

08.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr/skm

To

- 1.The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
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G.R.SWAMINATHAN, J.

Btr/skm

**Pre-delivery Order made in
W.P(MD)No.23475 of 2019**

08.02.2023