



WEB COPY

W.P(MD)N



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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.24950 of 2019

and

W.M.P. (MD) Nos.21536, 21537, 21534 of 2019 & 4533 of 2020

The Correspondent
St.Britto Higher Secondary School,
Gnanaolivupuram-625 016,
Madurai District.

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. By its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
College Road, Chennai-600 009.

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

4.The District Educational Officer,
Madurai,
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, to call for the records relating to the impugned Government orders issued by the first respondent State Government dated 13.11.2018 in G.O.Ms.No.238, School Education (Pa.Ku.6(1)) Department and the staff fixation settled by the third respondent CEO for the academic year 2018-2019 in Na.Ka.No.11042/E1/2018, dated 02.01.2019 insofar as rendering the post of Record Clerk as surplus are concerned, quash the same and further direct the respondents 3 & 4 to approve forthwith the appointment of A.Joseph Sathish as Record Clerk in the petitioner school from the date of his appointment viz., 05.09.2018 with salary and all other attendant benefits.



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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 A.Joseph Sathish as Record Clerk. 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. The petitioner was appointed on 05.09.2018 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. I, therefore, set aside the order passed by the third respondent. The school management is permitted to resubmit the proposal pertaining to the appointment of **"A.Joseph Sathish, Record Clerk"** 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.

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

Sd/-

Assistant Registrar (CS I)

(*)Corrected as per the order of this court dated 12.04.2023 made in WP(MD).No. 24950 of 2019

Sd/-

Assistant Registrar (CS I)

// True Copy //

12/03/2023

Sub Assistant Registrar(CS)



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rmi/SKM

(*) TO be substituted the order already despatched on 30.03.2023

To

1.The Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
College Road, Chennai-600 009.

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

4.The District Educational Officer,
Madurai, Madurai District.

+1 CC to M/s.SPL.GP (SR-7299[F] dated 09/02/2023)

W.P(MD)No.24950 of 2019

08.02.2023

MGJ(28.03.2023) 3P 6C

KB(12.04.2023) 3P 6C