



W.P(MD)No.25118 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.11.2022

Pronounced on : 08.02.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25118 of 2019

Sri Kumarakurubara Swamigal Higher
Secondary School,
Rep. by its Secretary,
Srivaikundram - 628 601,
Tuticorin District.

... Petitioner

Vs.

1.The Director of School Education,
D.P.I Buildings, College Road, Chennai-6.

2.The Chief Educational Officer, Tuticorin District.

3.The District Educational Officer,
Tuticorin.

... 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 entire records connected with impugned order passed by the third respondent vide Na.Ka.No.3043/A1/2019, dated 31.10.2019 and quash the same and directing the third respondent to approve the appointment of Thiru.E.Pechimuthu as watchman w.e.f 01.06.2018 with all consequential monetary benefits on the basis of proposal submitted by the petitioner school dated 20.07.2018.



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For Petitioner : Mr.S.N.Ravichandran
For Respondents : Mr.N.Satheeskumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner school is a non-minority institution. It sent proposal for approving the appointment of Mr.Pechimuthu, Watchman to the third 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. The appointment was made on 01.06.2018 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,



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set aside the order passed by the third respondent. The school management is permitted to resubmit the proposal to the third respondent. The respondents 2 and 3 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.

08.02.2023

Index : Yes / No
Internet : Yes/ No
SKM

To

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G.R.SWAMINATHAN, J.

SKM

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