



W.P(MD)No.26208 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.26208 of 2019

and

W.M.P(MD)Nos.22643 & 22644 of 2019

The Correspondent,
St.Joseph's High School,
Siluvaipuram, Kollemcode Post,
Kanyakumari District-629 160.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal 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,
Nagercoil, Kanyakumari District.

4.The District Educational Officer,
Kuzhithurai,
Kanyakumari 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 proceedings 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 staff fixation settled by the third respondent CEO for the academic year 2018-2019 in Mu.Mu.No. 12283/E2/2018 dated 27.12.2018, in so far as it renders single cadre post of Junior Assistant as surplus, quash the same.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

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 Ms.L.M.Vimala Christal. 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.



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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 02.01.2018 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 fourth respondent. The school management is permitted to resubmit the proposal pertaining to the appointment of Ms.L.M.Vimala Christal 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 petition is closed.

08.02.2023

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



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1. The Principal Secretary,
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2. The Director of School Education,
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3. The Chief Educational Officer,
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G.R.SWAMINATHAN, J.

Btr/SKM

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