



W.P.No.14706 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.14706 of 2022

Kothandaraman High School,
Rep. by its Correspondent,
Uthukottai – 602 026.

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Petitioner

Vs

1. The Director of School Education,
College Road, Chennai – 6.

2. The Chief Educational Officer,
Thiruvallur – 602 001.

3. The District Educational Officer,
Avadi – 600 071.

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Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the entire records connected with impugned order passed by the second respondent vide O.Mu.No.2057/Aa2/2022, dated Nil.04.2022 signed on 27.04.2022 and quash the same and directing the second respondent to approve the appointment of M.Pavithra Balaji, as Office Assistant w.e.f.25.02.2022, with all consequential benefits, on the basis of the proposal of the petitioner School dated 04.03.2022.



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For Petitioner : Mr.S.N.Ravichandran

For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent dated 27.04.2022, thereby rejected the proposal sent for approval of appointment of M.Pavithra Balaji as Office Assistant with effect from 25.02.2022.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner School is a non-minority institution. According to the strength of the students, 14 teaching staffs and 4 full time non-teaching staffs were sanctioned. A vacancy had arisen for the post of Office Assistant due to voluntary retirement of one G.Samuvel, Office Assistant, on 08.07.2019. The third respondent, by its proceedings dated 02.07.2019, granted approval for voluntary retirement of the said G.Samuvel with effect from 08.07.2019. Thereafter, the



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petitioner School made a proposal dated 26.09.2019 to the second respondent through the third respondent seeking permission to fill up the said vacant post of Office Assistant.

4. Thereafter, three vacancies arose in the School for the post of Junior Assistants, Sweeper and Watchman. The second respondent granted permission to fill up the vacancies. Accordingly, the petitioner School made appointment in the said vacancies of Junior Assistant, Sweeper and Watchman. However, the second respondent rejected the proposal for approval of appointment on the basis of G.O.Ms.No.238, dated 13.11.2018. Therefore, the petitioner filed writ petitions before this Court in W.P.Nos.101, 103 and 105 of 2020. This Court allowed the writ petitions and in fact, the petitioner School filed Contempt Petition for non-compliance of the order passed by this Court. Thereafter, the second respondent, by its proceedings dated 23.10.2020, approved the appointment of Junior Assistant, Sweeper and Watchman. However, the second respondent failed to pass any order seeking permission to fill up the vacancy of the Office Assistant.



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5. However, in anticipation of permission, the petitioner School notified the vacancy in the District Employment Exchange on 06.12.2021 and also advertised in the daily newspapers, thereby inviting the applications from the suitable candidates for the post of Office Assistant. Thereafter, the petitioner School conducted interview and appointed one Pavithra Balajo as Office Assistant on 24.02.2022. Accordingly, she had joined duty on 25.02.2022. Pursuant to the appointment, the petitioner School sent a proposal on 04.03.2022 to the second respondent through the third respondent for approval of appointment as Office Assistant. However, it was rejected by the order impugned in this writ petition on the ground that the petitioner failed to obtain prior permission to appoint any candidate in the post of Office Assistant.

6. As per Rule 15(4) of the Tamil Nadu Recognized Private Schools (Regulations) Act 1973, no prior permission is required to fill up the non-teaching post in the aided non-minority/minority School. In fact, the petitioner School had sought permission from the second respondent to fill up the post of Office Assistant as early as on 26.09.2019 and



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11.10.2021. However, the second respondent kept in cold storage and failed to pass any orders. This Court repeatedly held that Rule 15(4) (i) is general and the same is applicable to both teaching and non-teaching posts. However, Rule 15(4)(ii) would not apply to non-teaching posts. Rule 15(4)(ii) applies only to teaching posts. The said Rule 15(4)(ii)(iii) reads as follows :

“15 (4)(ii)(iii).....In the case of appointment from any other school or by direct recruitment, the School Committee shall obtain prior permission of the District Educational Officer in respect of Pre-primary, Primary and Middle School and that of the Chief Educational Officer in respect of High Schools and Higher Secondary Schools, Teachers' Training Institutions setting out the reasons for such appointment. In respect of Corporate body running more than one school, the schools under that body shall be treated as one unit for purpose of this Rules”.”

7. Therefore, as far as the appointment of the non-teaching staff are concerned, the Tamil Nadu Recognized Private Schools (Regulations) Act or Rules provided for any such requirements and therefore the rejection order passed by the second respondent is contrary to law and it cannot be sustained in law.

8. In view of the above, this Court finds infirmity in the



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order passed by the second respondent and it is liable to be quashed.

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Hence, the impugned order dated 27.04.2022 in O.Mu.No.2057/Aa2/2022 passed by the second respondent is hereby quashed. Accordingly, this Writ Petition stands allowed. The second respondent is directed to approve the appointment of M.Pavitha Balaji as Office Assistant with effect from 25.02.2022 with all consequential benefits, forthwith. No costs.

31.01.2024

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Internet : Yes
Index : Yes/No
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To

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G.K.ILANTHIRAIYAN, J.



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