



W.P.(MD) No.1855 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.1855 of 2021
&
W.M.P.(MD).No.1591 of 2021

S.Praveen John

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government, School
Education Department, Secretariat Chennai-9
- 2 The Director of School Education,
College Road, Chennai
- 3 The Chief Educational Officer
Nagercoil, Kanyakumari District
- 4 The District Educational Officer,
Thiruvattar, Kanyakumari District
- 5 The Correspondent
St.Thomas High School, Netta
Kanyakumari
District -629 151

... 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 to call for the records on the file of the 3rd respondent pertaining to its proceedings in Aa.thi.mu.No. 1396/A2/2020 dated 12.06.2020 and to quash the same and consequently directing the respondents to approve the petitioners appointment as Record Clerk with effect from his date of appointment that is 12.3.2020 and to grant all the service and monetary benefits in consequent to the same within a time frame that may be fixed by this Hon'ble Court by considering the proposal resubmitted by the 5th respondent on 15.12.2020.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.V.Omprakash, Govt.Advocate
for R1 to 4

R5- No Appearance.

ORDER

The petitioner herein was appointed as Record Clerk by the 5th respondent School in the vacancy that arose due to retirement of one Susamma George who was working in the said school as Record Clerk by order dated 12.03.2020. Thereafter, the 5th respondent school which is a Minority Institution submitted a proposal dated 04.06.2020 to the 4th respondent seeking approval of the appointment of the petitioner herein. The



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4th respondent through proceedings in Aa.thi.mu.No.1396/A2/2020 dated 12.06.2020, returned the proposal submitted by the 5th respondent school requiring the 5th respondent to submit the proposal in terms of G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018. Thereafter, the 5th respondent appears to have resubmitted the proposal on 15.12.2020 and the same is claimed to be pending with the 4th respondent. Aggrieved by the non-approval of the appointment of the petitioner herein, the present writ petition has been filed.

2. The 4th respondent filed a counter affidavit contending that in terms of G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018, the post of Record Clerk is not available for the petitioner school to fill up the same by appointing the petitioner herein. However, during the course of argument it is brought to the notice of this court that G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018 was challenged before this court in a series of Writ petitions and the operation of the said G.O was stayed by this court by an order dated 14.06.2019 and the said stay is still operating as on date and matters are pending for



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consideration. In spite of the fact that the operation of the said G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018 stayed by this court by order dated 14.06.2019, the proposal submitted by the 5th respondent school was returned by the 4th respondent by proceedings in Aa.thi.mu.No.1396/A2/2020 dated 12.6.2020 that is much later to the stay granted by this court against operation of the G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018.

3. In the circumstances, the fact remains that G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018 is not in operation as on date and hence the action of the 4th respondent in returning the proposal submitted by the 5th respondent school seeking approval of the appointment of the petitioner cannot be said to be in accordance with law. Accordingly, the action of the 4th respondent in returning the proposal submitted by the 5th respondent by placing reliance on G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018 is illegal.

4. Accordingly, the matter is remitted back to the 4th respondent for



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reconsidering the proposal submitted by the 5th respondent school seeking approval of the appointment of the petitioner herein as Record Clerk in the 5th respondent school with effect from 12.03.2020 and the 4th respondent is further directed to consider the said proposal without reference to G.O.Ms.No. 238 School Education [Pa.Ka.6(1)] Department dated 13.11.2018 and pass orders as expeditiously as possible at any rate within a period of six weeks from the date of receipt of a copy of this order. If for any reason the proposal submitted by the 5th respondent is not available before the 4th respondent, the 5th respondent is granted liberty to submit the proposal afresh within a period of three weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.03.2024

NCC : Yes/No
Index : Yes/No
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MUMMINENI SUDHEER KUMAR, J.

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To

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State of Tamil Nadu
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Secretariat Chennai-9
- 2 The Director of School Education,
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