



W.P.(MD)No.3035 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.3035 of 2024

and

W.M.P(MD).No.3012 of 2024

L.Arul Jayaprakash

... 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,
Thanjavur, Thanjavur District.

4.The District Educational Officer,
Thanjavur, Thanjavur District.

5.The Correspondent,
St. Antony's Higher Secondary School,
Thanjavur, Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, calling for the



W.P.(MD)No.3035 of 2024

records relating to the impugned order issued by the 3rd respondent CEO in Na.Ka.No.11/a2/a3/2022 dated 18.08.2023, quash the same and further direct the 3rd respondent Educational Officer herein to approve forthwith the appointment of petitioner as Office Assistant w.e.f. 07.02.2019 in the 5th respondent's school namely St.Antony's Higher Secondary School, Thanjavur and disburse the grant-in-aid towards his salary with all attendant benefits from the said date.

For Petitioner : Mrs.A.Amala
For Respondent : Mr.T.Amjad Khan
Government Advocate
for R1 to R4

ORDER

Heard Mrs.A.Amala, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 to 4.

2. The petitioner has filed this petition seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 3rd respondent in Na.Ka.No.11/a2/a3/2022 dated 18.08.2023, quash the same and direct the 3rd respondent to approve



W.P.(MD)No.3035 of 2024

WEB COPY

forthwith the appointment of petitioner as Office Assistant *w.e.f.* 07.02.2019 in the 5th respondent's school and disburse the grant-in-aid towards his salary with all attendant benefits from the said date.

3. The petitioner was appointed as an Office Assistant in the fifth respondent School on 07.02.2019. The proposal sent by the fifth respondent School to the Chief Educational Officer for granting approval to the appointment of the petitioner has been rejected on 18.08.2023 through the impugned order for the reason that surplus posts are available in the corporate Management under which the petitioner School is placed.

4. Mrs.A.Amala, learned counsel appearing for the petitioner submitted that the fifth respondent School itself has got sanctioned strength of two posts and the petitioner has been appointed in one of those vacancies. It is her submission that the fifth respondent School though comes under the corporate Management, the District in which the fifth respondent School is situated does not have any surplus posts as on the date of appointment of the petitioner and even now, the same position



W.P.(MD)No.3035 of 2024

continues.

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5. The learned counsel appearing for the petitioner attracted the attention of this Court to the Judgment of this Court in ***W.P.(MD)No. 17044 of 2023 dated 10.10.2023 [The Correspondent, Lourdhu Annai Girls Higher Secondary School, K.Pudur - 625 007, Madurai District vs. The State of Tamil Nadu, Represented by its Secretary, Department of School Education, Fort St.George, Chennai - 600 009]*** rendered in respect of similarly placed persons, wherein, the Court has observed as under.

"4. According to the learned counsel appearing for the writ petitioner, the order impugned in the writ petition points out the surplus Office Assistants available in the other aided schools which do not form part of the corporate management of the petitioner school. Therefore, the question of directing the petitioner school to avail the services of the said surplus employees would not arise. Further, the learned counsel for the petitioner brings to the notice of the Court that G.O.Ms.No.238 School Education [Pa.Ka.6(1)] Department, dated 13.11.2018



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has been stayed by this Court on 14.06.2019 in W.M.P(MD)No. 9975 of 2019 in W.P(MD)No.13404 of 2019 by a learned Single Judge of this Court. The said order has been followed by the Hon'ble Division Bench in C.M.P(MD)Nos.6675 and 6677 of 2023 in W.A(MD)No.816 of 2023, dated 14.06.2023. Therefore, it is clear that as on today, the said G.O.Ms.No.238 School Education [Pa.Ka.6(1)] Department, dated 13.11.2018 is not in force.

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6. The Court has stayed the implementation of G.O.Ms.No.238 School Education [Pa.Ka.6(1)] Department, dated 13.11.2018 on 14.06.2019. Only thereafter, the order of appointment has been issued by the petitioner school management in favour of one S.Rajesh on 03.07.2019. Hence, it is clear that the order of appointment in favour of S.Rajesh has been issued when G.O.Ms.No.238 School Education [Pa.Ka.6(1)] Department, dated 13.11.2018 was under the stay orders of this Court. Therefore, it is clear that the order impugned in the writ petition relying upon G.O.Ms.No.238 School Education [Pa.Ka.6(1)] Department, dated 13.11.2018 is not legally sustainable. Therefore, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 3rd respondent for passing fresh orders in the light of the observations made by this Court in the preceeding paragraphs.



W.P.(MD)No.3035 of 2024

WEB COPY

The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order."

6. In the instant case also, it appears that the third respondent had chosen to reject the proposal for appointment of the petitioner only by invoking the Government Order in G.O.Ms.No.238, School Education Department, dated 13.11.2018. The said Government Order itself is stayed and it cannot be brought into operation in the case of the petitioner. Since this petitioner is similarly placed, I feel that she is also entitled to the same relief granted above.

7. In view of the above stated reasons, the writ petition stands **allowed** to the extent that the impugned order issued by the 3rd respondent in Na.Ka.No.11/a2/a3/2022 dated 18.08.2023 is quashed. The matter is remitted back to the file of the third respondent for passing fresh orders in the light of the observations made by this Court in the preceding paragraphs. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.



W.P.(MD)No.3035 of 2024

Consequently, the connected Miscellaneous Petition is closed.

WEB COPY

30.04.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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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,
Thanjavur, Thanjavur District.
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W.P.(MD)No.3035 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.3035 of 2024
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30.04.2024