



W.P.(MD)No.5102 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.5102 of 2024

and

W.M.P(MD).Nos.4883 & 4885 of 2024

S.Satheesh Kumar

... 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,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
Marthandam Educational Officer,
Marthandam, Kanyakumari District.
- 5.The Secretary,
Sree Devi Girls Higher Secondary School,
Kollemcode -629 160.
Kanyakumari District.

... Respondents



W.P.(MD)No.5102 of 2024

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 3rd respondent Chief Educational Officer in Na.Ka.No.3204/Aa1/2023 dated 25.10.2023, quash the same and direct the 3rd respondent Chief Educational Officer to approve forthwith the appointment of the petitioner as Watchman in the 5th respondent school namely, Sree Devi Girls Higher Secondary School, Kollemcode, Kanyakumari District w.e.f, the date of his appointment viz., 17.12.2018, with all attendant benefits including the arrears of salary and allowances.

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

For R1 to R4 : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader 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



W.P.(MD)No.5102 of 2024

impugned proceedings issued by the third respondent in Na.Ka.No. 3204/Aa1/2023 dated 25.10.2023, quash the same and direct the third respondent to approve forthwith his appointment as Watchman in the fifth respondent School *w.e.f.* the date of his appointment *viz.*, 17.12.2018, with all attendant benefits including the arrears of salary and allowances.

3. The petitioner was appointed as a Watchman in the fifth respondent School on 17.12.2018. In this regard, a proposal was submitted to the third respondent for approval and the same was rejected by impugned order dated 25.10.2023 stating that the required documents have not been submitted; appointment has been made without following the Rules of Regulation; and that prior permission was not obtained as per Rule 15(4)(c) of the Tamil Nadu Private School Regulation Rules, 1974.

4. Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner submitted that since the post is a non-teaching and single cadre post, prior permission is unnecessary and Rules of Regulation need not be followed. It is further submitted that with regard to the requirement of



W.P.(MD)No.5102 of 2024

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documents, new Rules came into force only subsequent to the appointment of the petitioner and hence, the impugned order is liable to be set aside.

5. Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that there cannot be any difficulty for the petitioner to submit documents like Medical Certificate and Conduct Certificate, which are basic requirements and that prior permission ought to be obtained even for non-teaching posts. Attention was drawn to the Judgment of the Principal Seat of this Court in ***W.A.No. 900 of 2007 dated 30.04.2008 [R.Kuttiswamy, working as Junior Assistant, Sabhanayaga Mudaliar Hindu Higher Secondary School, Sirkali, Nagapattinam District vs. 1.Joint Director of School Education (Secondary Education), Chennai and three others]***, wherein, it is held that applicability of Rule 15 is relative only in respect of the teaching staffs and the said Rule cannot be invoked for non-teaching staff like Watchman. The relevant paragraph is extracted hereunder.



W.P.(MD)No.5102 of 2024

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*"5. The decision of the learned single Judge of this Court rendered in **A.MURUGESAN V. STATE OF TAMIL NADU** (2007 (4) MLJ 561) holding that rule 15 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 will apply only to teaching staff and with regard to the appointment of non-teaching staff, there is no need to get prior permission from the educational authorities is also brought to our notice."*

6. In yet another Judgment of the Division Bench of this Court in **Rev.Aplc.(MD)No.108 of 2018 dated 14.06.2023 [Pankajam Girls Higher Secondary School, Rep. by its Secretary, Bodinayakkanur, Theni District vs. 1.The State of Tamil Nadu, Rep. by its Principal Secretary, School Education Department, Fort. St.George, Chennai - 600 009 and four others]**, it is held that the applicability of the communal roster and reservation in case of single cadre / isolated posts is not needed. The relevant part of the Judgment is extracted hereunder.

"13. In light of the detailed discussion as above, the legal issue in regard to the applicability of the communal roster and reservation in case of single cadre / isolated posts is answered to state that in such instances there can be no application of



W.P.(MD)No.5102 of 2024

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the communal roster at all. To clarify, in the case of a single cadre, isolated post, the communal roster does not apply."

7. With regard to the requirements of other documents like Medical Certificate and Form VI (A), there is a requirement contemplated under the Tamil Nadu Private Schools (Regulation) Rules, 2023. Since the petitioner's appointment was made prior to the said Rules coming into the force and the proposal has been sent as early as on 14.12.2020, the fifth respondent School could not attach the above documents. Since the impugned order has been passed subsequent to the new Rules coming into force, it appears that the third respondent required some more documents as well. Though the Tamil Nadu Private Schools (Regulation) Rules, 2023, were not in force when the petitioner was appointed *i.e.*, on 17.12.2018, there cannot be any difficulty for the fifth respondent School to produce the required documents. In such circumstances, I feel that the the impugned order can be set aside and the matter can be remanded back to the third respondent for fresh consideration.



W.P.(MD)No.5102 of 2024

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8. In view of the above observations, the writ petition is **disposed of** and the impugned order of the third respondent dated 25.10.2023 is set aside and the matter is remanded back to the third respondent for fresh consideration. The fifth respondent School is directed to submit the required documents to the third respondent within a period of two weeks from the date of receipt of a copy of this order and the third respondent is directed to consider the proposal submitted by the fifth respondent School in the light of the above observations and the judicial pronouncements and pass orders afresh by granting approval to the appointment of the petitioner within a period of eight weeks from the date of receipt of the documents. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.04.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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W.P.(MD)No.5102 of 2024

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,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
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W.P.(MD)No.5102 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.5102 of 2024

25.04.2024