



WP(MD) No.12611 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.12611 of 2024

Thiru.R.V.Thevar Memorial Girls Higher Secondary School,
Rep. by its Secretary,
Cholapuram (South),
Rajapalayam,
Virudhunagar District.

... Petitioner

Vs.

1.The Chief Educational Officer
Virudhunagar District.

2.The District Educational Officer (Secondary),
Sivakasi,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the



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records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.4640/A2/2019 dated 17.10.2023 and quash the same and direct the respondents to approve the appointment of A.Dhivya as Junior Assistant in the petitioners' school and disburse the grant in aid from the date of appointment i.e. from 01.11.2019 with all consequential benefits.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.T.Amjad Khan

Government Advocate

ORDER

The petitioner has filed this writ petition seeking a Writ of Certiorarified Mandamus to quash the order in Na.Ka.No.4640/A2/2019 dated 17.10.2023 of the 1st respondent and direct the respondents to approve the appointment of A.Dhivya as Junior Assistant in the petitioners' school and disburse the grant in aid from the date of appointment i.e. from 01.11.2019 with all consequential benefits.



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2. Heard Mr.V.Panneer Selvam, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner has called for the records relating to the impugned order dated 17.10.2023 by which the petitioner's appointment given to one Divya to the post of Junior Assistant in his School has not been considered. In the impugned order, dated 17.10.2023, it is stated that as per G.O.(Ms)No.238, School Education Department, dated 13.11.2018 only after deploying the District surplus post in the similar category or post, the petitioner can make any fresh appointment. Since in the opinion of the first respondent, the petitioner had appointed the said Divya in violation of G.O.(Ms)No.238, dated 13.11.2018, the approval was not granted.

5. However, the learned counsel for the petitioner submitted



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that the said Government Order has become inoperative in view of the interim orders passed in C.M.P(MD)Nos.6675 and 6677 of 2023 in W.A.(MD)No.816 of 2023, dated 14.06.2023. Earlier, when the very same petitioner has filed a writ petition in W.P.(MD)No.7983 of 2020 challenging the communication through which the proposal of Divya was returned on 09.06.2020, this Court has passed the following order basing upon the validity of G.O.(Ms)No.238 School Education Department, dated 13.11.2018. For the sake of clarity, the relevant paragraph of the said judgment is given as below:

“3.The validity of the said government order has already been upheld by me. The appointment was made subsequent to the said government order. The learned counsel for the petitioner points out that even after the said government order, the school is having the requisite students- strength and that therefore, they are entitled to have one post of Junior Assistant. On this, there is no dispute. The real problem is that there is already availability of surplus Junior Assistant in the District itself. While I cannot direct the respondents to approve the petition mentioned appointment, I direct the respondents to deploy any surplus Junior Assistant in the vacancy in the petitioner / school. This shall be



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done within a period of four weeks from the date of a copy of this order. The petitioner is also directed to submit a formal application in this regard to the first respondent within a period of ten days from the date of receipt of a copy of this order.”

6. However, in the said order itself, the learned Single Judge had observed that in certain earlier proceedings, G.O.(Ms)No.238, dated 13.11.2018 has been upheld by him. However, it is learnt that the order upholding the above Government Order has been challenged by way of filing W.A.(MD)No.816 of 2023. An interim order has been passed by staying the operation of the order of the learned Single Judge and thereby, staying the operation of G.O.(Ms)No.238, dated 13.11.2018.

7. The learned counsel for the petitioner submitted that consequent to the earlier orders of the learned Single Judge made in W.P. (MD)No.7983 of 2020, the respondent had deployed one person, namely, Selvam to be deployed to the petitioner's School but the said Selvam was not relieved from the school, where he was originally



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working and so far as the petitioner school is concerned, the said Divya continues to work as a Junior Assistant. I find no difficulty in continuing the above arrangement in view of the fact that G.O(Ms)No.238 has been subsequently stayed. So, in the change of circumstances, I feel that it is appropriate for the Government even to withdraw the earlier deployment order of Selvam and to grant approval to the proposal submitted by the petitioner school for the appointment of Divya to the post of Junior Assistant subject to the outcome of the writ appeal and pass orders to that effect within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observations and directions, this writ petition is **disposed of**. No costs.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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To
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- 1.The Chief Educational Officer
Virudhunagar District.
- 2.The District Educational Officer (Secondary),
Sivakasi,
Virudhunagar District.



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R.N.MANJULA, J.

RM

Order made in
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