



WP(MD) No.13196 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.13196 of 2024
and
W.M.P(MD)No.11680 of 2024

The Correspondent

St. Britto Higher Secondary School,

Gnanaolivupuram - 625 016,

Madurai District.

... 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.



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3.The Chief Educational Officer

Madurai,

Madurai District.

4.The District Educational Officer,

Madurai,

Madurai District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 4th respondent District Educational Officer in O.Mu.No. 143/A4/2024 dated 11.04.2024 Quash the same and further direct the 3rd respondent Chief Educational Officer herein to approve forthwith the appointment of R.Ravi as Office Assistant w.e.f. 19.10.2022 in the petitioner's School namely, St.Britto Higher Secondary School, Gnanaolivupuram, Madurai and disburse the grant-in-aid towards his salary with all attendant benefits from the said date.



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For Petitioner : Ms.A.Amala

For Respondents : Mr.T.Amjad Khan

Government Advocate

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order issued by the 4th respondent in O.Mu.No. 143/A4/2024 dated 11.04.2024 and further direct the 3rd respondent to approve forthwith the appointment of R.Ravi as Office Assistant w.e.f. 19.10.2022 in the petitioner's School namely, St.Britto Higher Secondary School, Gnanaolivupuram, Madurai and disburse the grant-in-aid towards his salary with all attendant benefits from the said date.

2. Heard Mr.A.Amala, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.



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

4. The petitioner school has filed this writ petition challenging the order of fourth respondent, dated 11.04.2024. The petitioner school has appointed One Ravi in the sanctioned post of Office Assistant and sent a proposal for approval and the same was rejected and returned through the impugned order for the reason that deployment of surplus staff as per G.O.(Ms)No.238 School Education [Pa.Ka.6(1)] Department, dated 13.11.2018 and also the proceedings of the Government in Na.Ka.No.34416/d1/2013 dated 29.03.2023 do not speak about any instructions about the post of other than teachers and of P.G.Assistants.

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.3035 of 2024, dated 30.04.2024** rendered in respect



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of similarly paced persons, wherein, the Court has observed as under :

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 has



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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.

5...

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



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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. 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."

6. In the instant case also, it appears that the fourth 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



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Government Order itself has been stayed and it cannot be brought into operation for the case of the petitioner. Since the incumbent of the petitioner school is similarly placed, I feel that the said appointee by name Ravi is also entitled to the same relief as 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 fourth respondent, dated 11.04.2024 is quashed. The matter is remitted back to the file of the fourth 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. Consequently, the connected Miscellaneous Petition is closed.

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

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To

- 1.The State of Tamil Nadu
Rep. by its Secretary, Department of School Education,
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Sheena.
- 3.The Chief Educational Officer
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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.13196 of 2024

Dated:
21.06.2024