



WP(MD) No.16166 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.16166 of 2022

and

W.M.P(MD)No.11700 & 11701 of 2022

The Secretary,
Devangar Higher Secondary School,
Neeravi – 623 603,
Ramanathapuram 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 - 600 006.



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3. The Chief Educational Officer,
Ramanathapuram District,
Ramanathapuram.

4. The District Educational Officer,
Paramakudi,
Ramanathapuram 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 Government Orders issued by the 1st respondent State Government in G.O.Ms.No. 238, School Education (Pa.Ka. 6(1) Department dated 13.11.2018 and consequential proceedings issued by the 4th respondent DEO in O.Mu. No. 5947/a3/2021 dated 19.01.2022, quash the same, and further direct the 4th respondent DEO to approve the appointment of M.Muthukumar as Scavenger w.e.f. 01.11.2021, with salary and all other attendant benefits.

For Petitioner : Ms.M.F.Rooshi Maas
for M/s.Isaac Chambers

For Respondents : Mr.M.Siddharthan
Additional Government Pleader



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ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned Government Orders issued by the 1st respondent State Government in G.O.Ms.No. 238, School Education (Pa.Ka. 6(1) Department dated 13.11.2018 and consequential proceedings issued by the 4th respondent DEO in O.Mu. No. 5947/a3/2021 dated 19.01.2022, and further direct the 4th respondent DEO to approve the appointment of M.Muthukumar as Scavenger w.e.f. 01.11.2021, with salary and all other attendant benefits.

2. Heard Ms.M.F.Rooshi Maas, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents.

3. The petitioner School has appointed one Muthukumar as a Scavenger through proceedings, dated 26.10.2021. The petitioner School sent a proposal for approving his appointment on 01.11.2021 to the fourth respondent and the same was rejected on 19.01.2022. Hence, the petitioner has filed this writ petition.



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4. The learned counsel for the petitioner submitted that the issue is no longer *res integra* and is covered by the decision of this Court in ***W.P.Nos.10525 of 2020 etc., batch dated 06.12.2023***. While dealing with the same issue, this Court has observed in paragraph Nos.5 to 10 held as follows:-

“5. As per the impugned Government Order, out of 11 total posts, only three posts are retained and the rest of the posts are either abolished or outsourced. In pursuant to the said Government Order, some of the petitioners in the batch of Writ Petitions are either persons who have already been working in those capacities or are schools that have incumbents working in those capacity, which have been abolished by the Government pursuant to G.O.Ms.No.238, School Education Department dated 13.11.2018. Aggrieved by the said Government Order, Writ Petitions have been filed to quash the Government Order and restore their position to anti-Government Order and not to deploy them.

6. The posts which have been approved by the statutes have been abolished by the issuance of the administrative Government Order which is not permissible. The impact of



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the Government Order as per the some of the learned counsels for the petitioners is that it will bind only upon the Schools which get the grant from the Government and not applicable to the minority Institutions. However, some of the learned counsels for the petitioners have taken a different view that the Government Order is uniformly applicable to both the schools which get grant in aid and minority schools. Similar Government Orders which have been passed in the same line of the impugned Government Order have already been quashed by this Court.

7. However, Mr.S.Silambannan, the learned Additional Government Pleader appearing for the respondents submitted that the impugned Government Order has already been upheld by this Court and the learned Division Bench has passed an order by staying the order of the learned Single Judge, in the Writ Appeal in W.A.No.816 of 2023. The first respondent has taken some constructive steps for working out the possibility of accommodating the petitioners either in the Rural or in local body office. However, it came to be known that such arrangement is feasible and hence, the Government might consider the pros and cons of the issue and would take a decision.



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8. *The learned counsel for the petitioners in W.P.Nos. 13526 & 13528 of 2020 submitted that G.O.Ms.No.238, School Education Department dated 13.11.2018 does not make any mention about the Laboratory Attender. Though the petitioner-s appointment for Laboratory Assistant is made on 06.11.2019 was not approved by the respondents 3 and 4. The other reason for declining approval is that prior approval has not been obtained by the petitioner pursuant to G.O.Ms.No.101. School Education Department dated 18.05.2018.*

9. *Mr.S.Silambannan, further submitted that the posts are sanctioned only in accordance with the reasonable demand related to the strength of students and all other circumstances and nexus to the object sought to be achieved by these institutions. Even though the posts were originally sanctioned by virtue of the Tamil Nadu Private Schools Act~1974, the sanction of the posts are given only through the government orders. When ever there are change in circumstances like reduction in the strength of students and then, the government has to revised the required staff strength and only during that exercise this government order has been issued.*

10. *Further in CMP(MD) No.6675 & 6677 of 2023 in*



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WA.(MD)No.816 of 2023 dated 14.06.2023, filed before the Hon-ble Division Bench of Madurai Bench of this High Court, has stayed the operations G.O.Ms.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018. Unless the Writ Appeal is disposed, no order either by upholding or by rejecting the impugned government order can be passed. Hence I feel these writ petitions can be disposed subject to the out come of the Writ Appeals. It goes without saying that the respondents would give approval if the Writ Appeal is dismissed. As the operation of the G.O.Ms.238, School Education (Pa.Ka.6(1) Department, dated 13.11.2018 has been stayed, the petitioners do not have any difficulty to enjoy the status quo in WMP.Nos. 18664, 16749, 16742, 16743, 23797, 24575 of 2020 and 8038, 9457, 9462, 12056, 14048, 14164, 14558, 14621, 15466, 15470, 15881, 16552, 17636, 17645, 18148, 18842, 20075, 20083, 20065, 20068, 20088, 20244, 20476, 20480, 22118 of 2021, till the disposal of the writ appeal in WA.(MD)No.816 of 2023.”

5. Since the petitioner herein is also similarly placed as that of the petitioners in the above writ petition, this petitioner is also entitled for the same relief.



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6. Accordingly, following the earlier decision of this Court supra (*W.P.Nos.10525 of 2020 etc., batch dated 06.12.2023.*), this Writ Petition is **disposed of** in the above lines. No costs. Consequently, connected miscellaneous petitions are closed.

18.06.2024

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

RM



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Rep by its Secretary,
Department of School Education,
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College Road,
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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.16166 of 2022

Dated:
18.06.2024