



W.P.(MD).No.27315 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.27315 of 2024

and

W.M.P.(MD).No.23140 of 2024

A.Aswini

... Petitioner

-vs-

1.The State of TamilNadu,
Rep. by its Secretary,
Department of Higher Education,
Fort St. George, Chennai-600 009.

2. The Director of Collegiate Education,
College Road, Chennai-600 006.

3. The Joint Director of Collegiate Education,
Madurai Region, Madurai District.

4. The Secretary,
Rajapalayam Rajus' College,
Mudangiyar Road,
Rajapalayam-629 117,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the third respondent Joint Director in



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Na.Ka.No.8341/Oo1/2024 dated 18.09.2024 and quash the same and further direct the second and third respondents to approve the appointment of the petitioner as Sweeper in the fourth respondent college and to sanction and disburse the grant in aid to the petitioner towards her salary and all other attendant benefits w.e.f. 01.08.2024.

For Petitioner : Mr.T.Cibichakraborty

For Respondent Nos.1 to 3 : Mr.N.Satheeshkumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a Sweeper appointed in the fourth respondent college, challenging the order passed by the third respondent herein dated 18.09.2024, wherein his appointment was not approved.

2. A perusal of the impugned order dated 18.09.2024 reveals that the petitioner was appointed as a Sweeper in the fourth respondent college on 01.08.2024, and the management has submitted a proposal to approve his appointment. Under the impugned order, the third respondent has rejected the said proposal, citing the Government Order in G.O.Ms.No.49, Personnel and Administrative Reforms Department dated 14.05.2002, and G.O.Ms.No.219,

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Higher Education (D1) Department, dated 24.10.2013. Reliance has been raised upon the above said Government Orders to the effect that the post of Sweeper can only be out sourced as per the said government order. Therefore, the appointment of the writ petitioner cannot be approved. This order is put to challenge in the present writ petition.

3. According to the learned Counsel appearing for the writ petitioner, G.O.Ms.No.219, Higher Education(D1) Department, dated 24.10.2013 was quashed by this Court in W.P.(MD).Nos.22533 to 22535 of 2015, dated 27.06.2019, the said order was confirmed by the Hon'ble Division Bench of this Court in W.A.(MD).No.532 to 534 of 2020 dated 06.08.2020. The learned Counsel appearing for the writ petitioner had further relied upon the judgement of this Court in W.P.(MD).No.15669 of 2016 dated 12.08.2021, wherein the learned Single Judge held that G.O.Ms.No.49, dated 14.05.2002 is applicable only to Government Colleges and not to aided colleges.

4. Per contra, the learned Additional Government Pleader appearing for the official respondents relying upon the Counter, had contended that in view of the above said Government Orders, the post of sweeper was outsourced



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and therefore the appointment made by the fourth respondent college cannot be approved. He further contended that in view of G.O.Ms.No.166, Higher Education (C2) Department, dated 22.10.2020, the Group 'D' posts in the Government aided institution has to be filled only through outsourcing.

5. I have carefully considered the submissions made on either side and perused the materials available on record.

6. A perusal of the impugned order reveals that the proposal submitted by the aided management for approving the appointment of the petitioner as sweeper has been rejected solely on the ground that the said post has to be outsourced as per G.O.Ms.No.49 and G.O.Ms.No.219 dated 15.05.2022 and 24.10.2013. As rightly pointed out by the learned Counsel appearing for the writ petitioner, G.O.Ms.No.219, Higher Education Department dated 24.10.2013 has been quashed by this Court in W.P.(MD).Nos.22533 to 22535 of 2015 dated 27.06.2019. The said order of the learned Single Judge has been upheld by the Hon'ble Division Bench of this Court in W.A.(MD).Nos. 532 to 534 of 2020 dated 06.08.2020. The learned Single Judge of this Court after perusing the government order in G.O.Ms.No.49, Personnel and



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Administrative Reforms Department dated 14.05.2002, has categorically held that the said Government Order is applicable to only Government institutions and not to aided institutions. Such a view has been taken in W.P.(MD).No. 15669 of 2016 dated 12.08.2021. Though reference was made to G.O.Ms.No. 166, Higher Education (C2) Department dated 22.10.2020, and the same does not support the case of the official respondents. But, on the other hand, it supports the writ petitioner. There is no reference about outsourcing of Class 'D' posts in the said Government order. In view of the said facts, the order impugned in this writ petition is not legally sustainable.

7. In view of the above said deliberations, the impugned order in this writ petition is set aside and the fourth respondent college is directed to resubmit the proposal to the third respondent within a period of two weeks from the date of receipt of a copy of this order. On such resubmission the third respondent is directed to grant approval to the appointment of the writ petitioner within a period of eight (8) weeks thereafter.



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8. With the above said observations, this writ petition stands allowed.

No costs. Consequently, connected miscellaneous petition is closed.

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

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Department of Higher Education,
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2. The Director of Collegiate Education,
College Road, Chennai-600 006.
3. The Joint Director of Collegiate Education,
Madurai Region, Madurai District.
4. The Secretary,
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R.VIJAYAKUMAR,J.

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