



Writ Petition No.14635 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6/1/2025

C O R A M

THE HONOURABLE Mr.JUSTICE VIVEK KUMAR SINGH

Writ Petition No.14635 of 2021

a n d

W.M.P.Nos.15520 and 15521 of 2021

N. Althaf

...

Petitioner

Vs

1. The Commissioner of School Education
DPI Campus, College Road
Chennai 600 006.
 2. The Chief Educational Officer
Presidency Girls Higher Secondary School
Egmore
Chennai 600 008.
 3. The District Educational Officer
Chennai East
Model Higher Secondary School
Triplicane
Chennai 600 005.
 4. The Correspondent
Murthuzaviya Oriental Higher Secondary School
12/186 Big Street
Triplicane
Chennai 600 005.
- ...
- Respondents



Writ Petition No.14635 of 2021

PRAYER : Petition filed under Article 226 of the Constitution of India

praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the third respondent in O.Mu.No.2862/A1/2020 dated 21/6/2021 and quash the same and consequently, direct the respondents to approve the appointment of petitioner in the regular sanctioned post of Office Assistant in the fourth respondent School from the date of appointment on 26/10/2020 including the payment of arrears of salary within the time frame to be fixed by this Court.

For petitioner	...	Mr.Sarath P.Nair for Mr.G.Sankaran
For respondents	...	M/s.Mytheru Chandru Special Government Pleader

- - - - -

ORDER

This writ petition has been filed to quash the impugned proceedings dated 21/6/2021, issued by the third respondent, in O.Mu.No.2862/A1/2020 and consequently, direct the respondents to approve the appointment of petitioner in the regular sanctioned post of Office Assistant in the fourth respondent School from the date of appointment on 26/10/2020, including



the payment of arrears of salary.

WEB COPY

2. The facts in brief are as follows:-

Fourth respondent School is a Government aided Minority Institution. On the retirement of Mr.T.M.Humayun, on 31/1/2020, petitioner was appointed as Office Assistant, vide, appointment order dated 26/10/2020. When the fourth respondent School had forwarded a proposal to the second respondent through third respondent for the approval of the petitioner, with effect from 26/10/2020, third respondent issued the impugned communication dated 21/6/2021, stating that post of the petitioner as Office Assistant cannot be approved on the premise that as per G.O.Ms.No.238 School Education Department dated 13/11/2018, non teaching post in Government Aided Schools can be filled only by deployment of surplus staff working in other Schools within the revenue District and therefore, appointment by direct recruitment cannot be approved. Being aggrieved, the petitioner has come forward with the instant writ petition praying for the relief as stated therein.

3. The District Educational Officer, Chennai East, has filed a counter,



wherein it is stated that the second respondent has already intimated to the fourth respondent that the post would be filled up after the retirement of the non-teaching staff only with the surplus person in the revenue District level, vide paragraph 8 of the staff fixation proceedings dated 24/1/2020 and the proceeding was also served to the School. In spite of the said intimation, School had appointed the writ petitioner on 26/10/2020. Thus, the appointment was made against the Rules in force.

4. Heard Mr.Sarath P.Nair, learned counsel for the petitioner and Mr.Sytheru Chandru, learned Special Government Pleader for the respondents.

5. The learned counsel appearing for the petitioner submitted that when the appointment is made in the sanctioned post, as per staff fixation order, appointment in the post of Office Assistant ought to be approved by the Department. As far as the minority Institution is concerned, they are exempted under the provisions of the Act from seeking prior permission to fill up the teaching and non-teaching post in the School.

6. The learned Special Government Pleader appearing for the



respondents submitted that now, the Government has regulated the Chief Educational Officer to accord prior permission for filling up non-teaching staff in Aided High and Higher Secondary Schools, as per G.O.(Ms) No.101, School Education Department, dated 18/5/2018. Following this, Government had reiterated its decision in G.O.(MS) No.238 School Education Department dated 13/11/2018. Hence, prior permission should be obtained from the educational authority to fill up the non-teaching post in the Government Aided High and Higher Secondary Schools.

7. Perused the materials available on record.

8. There is no specific provision in the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973 and 1974 regarding the eligibility criteria to sanction each category of non-teaching post and the requirement of prior permission from the competent authority to fill up the vacancy of non-teaching post is not specified in the said Act and Rules.

9. It is relevant to extract the relevant portions from the return of appointment of approval proposal of the petitioner dated 30/3/2021.



WEB COPY

(i). Any vacancy that arises in the post of Non-teaching staff in the Minority and Non-minority aided School, it shall be filled with surplus non-teaching staff from other aided Schools only as per G.O.(MS) No.238 School Education {SC 6 (1) Department dated 13/11/2018 and the same was also instructed by the Chief Educational Officer, Chennai to the management of the School in paragraph 8 of the staff fixation orders issued vide RC.No.8525/B3/2019 dated 24/1/2020.

(ii). Without considering the same, management of the school has appointed the petitioner on 26/10/2020 as Office Assistant without informing to Chief Educational Officer, Chennai.

(iii). In the Chennai Revenue District, there are 14 Office Assistant posts found surplus with persons and hence, any one of the surplus staff may be deployed to the Office Assistant vacant post of the said School.

(iv). Hence, the appointment of the petitioner in the post of Office Assistant on 26/10/2020 could not be approved.



Writ Petition No.14635 of 2021

WEB COPY

10. The learned Special Government Pleader produced a letter dated 19/8/2024 of the District Educational Officer (Secondary) Chennai South, wherein it is stated that the Management of the School has appointed the petitioner on 26/10/2020 as Office Assistant without informing to Chief Educational Officer. At that time, in Chennai Revenue District, 14 posts of Office Assistants were found surplus with persons, and hence, any one of the surplus staff may be deployed to the Office Assistant vacant post of the said School. In such a view of the matter, appointment of the petitioner to the post of Office Assistant on 26/10/2020 could not be approved.

11. The Government have the constitutional right to revise the norms formulated several decades ago on the basis of the present circumstances. The Government has got the power of prescribing norms for retaining the non-teaching posts that are sanctioned to Schools and withdraw the existing non-teaching posts.

12. Taking into account of the huge expenditure on state exchequer, Government had taken a policy decision directing to fill up through



Writ Petition No.14635 of 2021

outsourcing in Government Schools. While so, aided School Managements spontaneously fill up the non-teaching vacancies without adhering to the Government rules and the same is not valid in law.

13. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

6/1/2025

mvs.

Index: yes/No

Neutral Citation: Yes/No

To

1. The Commissioner of School Education
DPI Campus, College Road
Chennai 600 006.
2. The Chief Educational Officer
Presidency Girls Higher Secondary School
Egmore
Chennai 600 008.
3. The District Educational Officer
Chennai East
Model Higher Secondary School
Triplicane
Chennai 600 005.



WEB COPY



Writ Petition No.14635 of 2021

VIVEK KUMAR SINGH,J

mvs.

W.P.No.14635 of 2021

6/1/2025