



W.P. No.377 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 7/1/2025

C o r a m

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P. No.377 of 2022
and
W.M.P. No.435 of 2022

Shree G.K. Jain Higher Secondary School,
Rep. by its Correspondent.

...Petitioner

Vs.

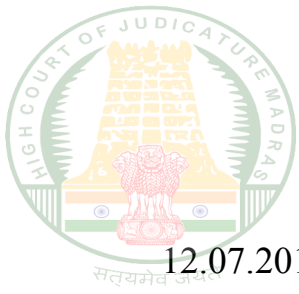
1. The Commissioner,
School Education,
DPI Campus,
College Road,
Chennai – 600 006.

2. The Chief Educational Officer,
Chennai – 600 008.

3. The District Educational Officer,
Office of the District Education Office,
Chennai (East),
Chennai – 600 005.

... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent in OO.Moo No.1362/A2/2018, dated 12.04.2019 and consequential order of the third respondent Na.Ka.No.2764/A2/2019, dated



W.P. No.377 of 2022

12.07.2019 and quash the same and consequently direct the respondents to grant approval for promotion to Thiru Raj Mohan Gandhi to the post of Record Clerk with effect from 01.08.2017 without reference to G.O. Ms. No.238, dated 13.11.2018.

For Petitioner : Ms. Dakshayani Reddy
Senior Counsel

For Respondents : Mr.V. Nanmaran
Addl. Govt. Pleader

ORDER

This writ petition has been filed to quash the order dated 12/4/2019 passed by the third respondent in OO.Moo No.1362/A2/2018, and consequential order of the third respondent Na.Ka.No.2764/A2/2019, dated 12/7/2019 and consequently, direct the respondents to grant approval for promotion to Thiru Raj Mohan Gandhi to the post of Record Clerk with effect from 1/8/2017 without reference to G.O. Ms. No.238, dated 13/11/2018.

2. Brief facts which are necessary for the disposal of this writ petition are as follows:-



W.P. No.377 of 2022

WEB COPY

The petitioner's School is a Jain Minority Institution (Hindi Medium) established in the year 1973. The petitioner's School was sanctioned with a post of Record Clerk/Office Assistant, Watchman, Scavenger and Sweeper. The Government issued G.O.Ms.No.238 dated 13/11/2018, wherein it is stated that the post of Record Clerk would be sanctioned only when the students strength is more than 250. The said Government Order is the subject matter of challenge in various writ petitions before this Court and the same has already been stayed by this Court. Since the respondent had rejected the approval of the petitioner to the post of Record Clerk, the petitioner has come before this Court for the relief stated supra.

3. Heard Ms.Dakshayani Reddy, learned Senior Counsel for the petitioner and Ms.Akila Rajendran, learned Government Advocate for the respondents 1 to 3.

4. The learned counsel appearing for the petitioner would submit that one T.Raj Mohan Gandhi was duly promoted from the post of Office Assistant to the post of Record Clerk, vide Proceeding dated 11/9/2017 and the proposal was also forwarded to the third respondent. At this juncture, for the years 2016



W.P. No.377 of 2022

— 2017, 2017 – 2018 and 2018 – 2019, one post of Record Clerk was sanctioned. At the time of promotion to the post of Record Clerk, as on 1/8/2017, post of Record Clerk was very much sanctioned and even for the subsequent year 2018 – 2019, post was very much sanctioned. Without considering all these aspects, the respondent has rejected the proposal of the petitioner's School.

5. Relying on the decision of the learned Single Judge of this Court in W.P.Nos.11574 and 11586 of 2020, in the case of ALWIN MARTIN Vs. THE DIRECTOR OF SCHOOL EDUCATION AND OTHERS, delivered on 7/10/2020, the learned counsel appearing for the petitioner would submit that the learned Single Judge of this Court has considered the scope of G.O.Ms.No.238 School Education Department, dated 13/11/2018 with regard to the appointment of non-teaching staffs in aided Schools. It is held that G.O.(Ms) No.238 will have only prospective effect. After referring the previous judgments of this Court earlier, the learned Single Judge reiterated the position to the effect that proposals submitted for approval of the appointment cannot be rejected on the ground that there is a fall in strength and the post became surplus, where the vacancy arose prior to G.O.(MS) No.238 School Education Department dated 13/11/2018.



WEB COPY

6. The learned Additional Government Pleader appearing for the respondents would submit that the second respondent has intimated the petitioner that the non teaching post would be filled up after the retirement of the non-teaching staff only with prior permission of the Director of School Education, vide paragraph 4 of the staff fixation proceedings in RC.No.7394/B3/2017 dated Nil.12.2017 and the Proceedings was served to the School and the School has received the same. In spite of the said intimation, the School has forwarded the proposal on 27/8/2018.

7. Perused the materials available on record.

8. It is admitted that the appointment was made against the posts which fell vacant prior to G.O.Ms.No.238 School Education Department, dated 13/11/2018. Hence, the approval for the appointment of the petitioner cannot be rejected on the basis of G.O.Ms.No.238. The said position is reiterated in several judgments and in view of the precedents, impugned orders are quashed. Consequently, the District Educational Officer, Chennai, is directed to approve the appointment of the petitioner in the respective post with effect from the date of appointment in the educational institutions and disburse the grant-in-aid



W.P. No.377 of 2022

towards the petitioner's salary with all attendant benefits from the date of appointment. The third respondent is directed to comply with the aforesaid direction, within a period of twelve weeks from the date of receipt of a copy of this order.

9. In the result, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

7/1/2025

mvs.

Index : Yes / No

Neutral Citation : Yes / No

To

1. The Commissioner,
School Education,
DPI Campus,



W.P. No.377 of 2022

College Road,
Chennai – 600 006.

WEB COPY

2. The Chief Educational Officer,
Chennai – 600 008.

3. The District Educational Officer,
Office of the District Education Office,
Chennai (East),
Chennai – 600 005.

VIVEK KUMAR SINGH, J

mvs.



WEB COPY



W.P. No.377 of 2022

W.P. No.377 of 2022

7/1/2025