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W.P.No.30365 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 30365 of 2025

Kandaswamikandar's College,
Represented by its Secretary
Mr.S.T.N.Maindar Mani,
Velur – 638 182, Namakkal District.

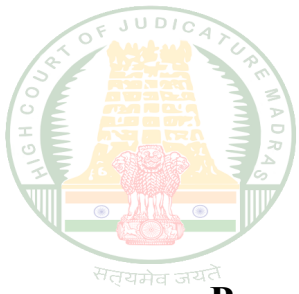
...Petitioner

Vs.

1.The State of Tamilnadu,
Represented by its Secretary,
Department of Higher Education,
Fort St., George, Chennai – 600009.

2.The Director of Collegiate Education,
College Road, Chennai – 600006.

3.The Regional Joint Director
of Collegiate Education,
Office of the Regional Joint Director of Collegiate Education,
Dharmapuri Region, Dharmapuri – 636 705. ...Respondents



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Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Mandamus, directing the 2nd and 3rd respondents to forthwith approve the appointments of the 3 non teaching Group D Staff, viz., Mrs.M.Sangeetha as Waterman, Mrs.P.Nirmala as Scavenger and Mr.R.Dineshkumar as Watchman in the petitioner Kandaswami Kandar's College with effect from the date of their appointment, i.e., from 03.03.2023 and to forthwith disburse their salaries and allowances from the said date.

For Petitioner : Mr. G.Anbumani

For Respondents : Mr. C.Jayaprakash
Government Advocate.

ORDER

The Writ Petition is filed for the following relief:

“directing the 2nd and 3rd respondents to forthwith approve the appointments of the 3 non teaching Group D Staff, viz., Mrs.M.Sangeetha as Waterman, Mrs.P.Nirmala



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as Scavenger and Mr.R.Dineshkumar as Watchman in the petitioner Kandaswami Kandar's College with effect from the date of their appointment, i.e., from 03.03.2023 and to forthwith disburse their salaries and allowances from the said date”.

2. It is the case of the petitioner that the petitioner college has been founded by a Trust established by Philanthropist Nanjai Edayar Sri Kandaswami Kandar. The petitioner is an aided college. By proceedings of the 2nd respondent bearing Na.Ka.18138/G3/2022 dated 28.04.2022 the petitioner college was permitted to make appointments in 20 non teaching posts (sanctioned posts) subject to the conditions therein. These posts are Group D posts.

3. Thereafter, the petitioner initiated selection process by obtaining the names from the District Employment Officer, receipt of applications from candidates pursuant to newspapers notification, written test and interview. Initially, only 16 candidates could be



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selected and for the remaining four non teaching posts there were no suitable candidates.

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4. The committee of the petitioner college therein resolved to appoint 16 non teaching posts with effect from 11.07.2022 and they had also joined the services of the petitioner and the appointment had also been approved by the 3rd respondent. For the remaining four non teaching posts the petitioner college had initiated selection process and appointments were made on 03.03.2023 by scrupulously following the conditions and rules. The appointees had also joined the services of the petitioner on the very same day.

5. The petitioner communicated the appointment made to the 3rd respondent and sought his approval. Out of the four appointments made, the 3rd respondent approved post of Office Assistant on 16.08.2023 and with reference to the remaining three non teaching posts, viz., Sangeetha as Waterman, Nirmala as Scavenger and R.Dineshkumar as Watchman, the same was not approved despite



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several letters and representation for over two years.

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6. The petitioner would submit that these three non teaching staffs belong to SC Arunthathiyar community of which two are destitute widows and one is a first time graduate in the family. The 3rd respondent had also addressed series of letters to the 2nd respondent seeking permission for the follow up actions to be taken.

7. The petitioner came to learn that the respondents are reluctant to approve the appointment in the light of the GO.Ms.No.219 dated 24.10.2013, which directs outsourcing of the vacancies in Group D categories like, Sweeper, Scavenger, Cleaner and Gardener. This GO was subject matter of challenge before this Court in WP.Nos.6679 and 6680 of 2016 and the GO was quashed by order dated 24.11.2017.

8. The Writ Appeals filed against the said order in WA.Nos.2096 and 2124 of 2019 were also dismissed by Judgement dated 19.07.2019. Further appeal to the Hon'ble Supreme Court has also ended in a



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dismissal.

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9. The petitioner would submit that these three non teaching staffs have been working in the petitioner college for two years without any salary and allowance and the inaction on the part of the respondents is causing grave hardship.

10. Heard the learned counsels on the either side and perused the records.

11. The Government Order in GO.Ms.No.219 dated 24.10.2013 was considered by this Court in W.A.Nos.2096 and 2124 of 2019. The Bench had observed as follows in paragraph Nos.6 to 8:

“6.Rule 11 (1) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976, contain a legislative mandate to fix the staff strength every year. Rule 11 (3) provides that in case of regular vacancy, it is open to the Management to fill up the post on regular basis, the only requirement being that the candidate should be qualified.



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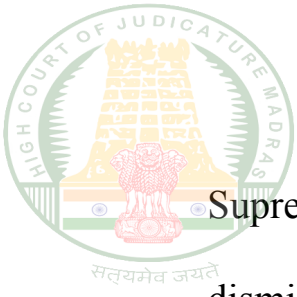


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7. There is no dispute that the Management was entitled to make appointments taking into account four vacancies in the post of Non-teaching staff. The denial of approval was only on account of the order in GO.Ms.No.219 dated 24.10.2013. There is no question of issuing a Government Order for outsourcing, even in respect of the sanctioned post. When it is made out that the post is sanctioned, the Management is having every right to fill up the post. The Government has no right to say that the post should be filled up only by outsourcing.

8. The posts were sanctioned only in accordance with the Tamil Nadu Private Schools Regulation Act, 1976 and the Rules made thereunder. The staff strength fixed as per the Rules cannot be taken away by issuing a Government Order directing or permitting outsourcing. We are therefore of the view that the learned Single Judge was justified in allowing the Writ Petition”.

12. The Bench had clearly observed that the Government had no right to outsource posts. This Judgement was followed by another Division Bench in W.A.No.574 of 2025. The Judgement in W.A.Nos.2096 and 2124 of 2019 was challenged before the Hon'ble



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Supreme Court in SLP.(C).No.6573 to 6577 of 2019 and the same was dismissed.

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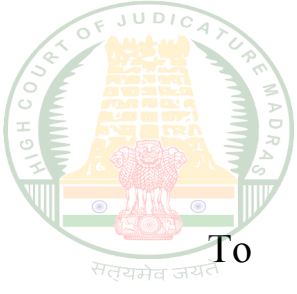
13. Therefore, in the light of the above, the Writ Petition is allowed. The 2nd and 3rd respondents are directed to approve the appointments of the three non teaching Group D Staffs, viz., Mrs.M.Sangeetha as Waterman, Mrs.P.Nirmala as Scavenger and Mr.R.Dineshkumar as Watchman in the petitioner, Kandaswami Kandar's College with effect from the date of their appointment, i.e., from 03.03.2023 and to forthwith disburse their salaries and allowances from the said date, within a period of one month, from the date of receipt of a copy of this order. No costs.

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Index : Yes/No

Internet : Yes/No

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To

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Represented by its Secretary,
Department of Higher Education,
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2.The Director of Collegiate Education,
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3.The Regional Joint Director
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