

W.P.No.32006 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

Coram

THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

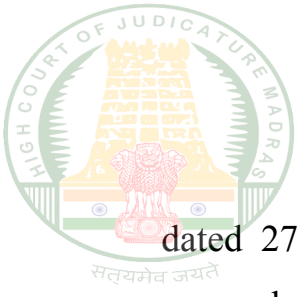
W.P.No.32006 of 2024 &
WMP.No.34749 of 2024

K.C.Sankaralinga Nadar Higher Secondary School,
New No.165, Old No.60, P.A.N.Rajarathinam Salai,
Chennai 600 021 represented by its
Secretary & Correspondent, K.Chandru ... Petitioner

-Versus-

- 1.The Director of School Education,
College Road, Chennai – 6.
- 2.The Joint Director of School Education (Personnel),
College Road, Chennai – 6.
- 3.The Chief Educational Officer,
Egmore, Chennai – 600 008.
- 4.The District Educational Officer,
Chennai North,
Chennai – 600 049. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the third respondent in his proceedings Oo.Mu.No.9106/Aa3/2021 dated 23.12.2021 and the consequential order issued by the fourth respondent in his proceedings Oo.Mu.No.3420/A1/2021



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dated 27.01.2022 and quash the same and consequently directing the third respondent to pass orders on the resubmitted proposal dated 09.10.2023 by granting permission to fill up the post of Watchman as per the staff fixation and consequently approve the same to the petitioner school.

For Petitioner : Mr.R.S.Anandan

*For Respondents : Mr.S.Mythreye Chandru,
Special Government Pleader*

ORDER

The writ petition has been filed in the nature of a certiorarified mandamus calling for the records relating to an order passed by the third respondent, the Chief Educational Officer, Chennai in proceedings dated 23.12.2021 and the consequential order passed by the fourth respondent, the District Educational Officer, Chennai North, Chennai in proceedings dated 27.01.2022 and quash both the aforementioned proceedings and direct the third respondent to pass orders on the resubmitted proposal dated 09.10.2023. The petitioner seeks permission to fill up the post of watchman as per the staff fixation and grant approval for the appointment made by the petitioner school.

2. In the affidavit filed in support of this writ petition, it had been stated that the petitioner school has been started as High School in the year 1954 and had been upgraded to Higher Secondary School in the year 1979. The post of



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Watchman had fallen vacant owing to the retirement of the person holding that

post on 31.03.2018. It is a sanctioned post. The school management had sought permission to fill up the said post. The fourth respondent had informed that after getting permission from the third respondent, the post can be filled up. There were communications between the school and the third/fourth respondents. Finally the impugned order came to be passed on 23.12.2021 by placing reliance on G.O.Ms.No.101 School Education (Budget – 1) Department, 18.05.2018 claiming that until prior permission is obtained, the post should not have been filled up.

3. The learned counsel for the petitioner had placed reliance on the judgment of a learned Single Judge and the consequential Writ Appeal wherein it had held that the school management has a right to fill up a post which post should be a sanctioned post. The writ petition was ***W.P.No.3939 of 2020 S.Murugan v. The Director of School Education, Chennai and others*** wherein by order dated 26.02.2020, the learned Single Judge had held as follows:

“7. In the present case, the petitioner was appointed on 20.08.2018 and the file is pending before the respondents from the year 2018. Ultimately, the



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impugned order came to be passed only on 12.12.2019. Till then, no steps were taken by the respondents to redeploy the surplus staff in the fourth respondent School. Therefore, it will not lie in the mouth of the second respondent to turn around and reject the approval for the appointment of the petitioner in the fourth respondent School. The approval can be granted and if it is found to be surplus even the petitioner can be redeployed and sent to the School wherever his services are required.

8. In view of the above discussion, the impugned order passed by the second respondent is hereby quashed and there shall be a direction to the second respondent to grant approval to the appointment of the petitioner, after satisfying himself the other requirements and disburse grant-in-aid towards the salary and allowance from the date of appointment. The consequential orders shall be passed within a period of four weeks from the date of receipt of copy of this order.

This writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.”

4. This order was taken up on appeal in W.A.No.1022 of 2020, the

Director of School Education and others v. S.Murugan and another and the



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Division Bench by Judgment dated 07.01.2021 had dismissed the writ appeal.

It is thus seen that the primary issue which has to be examined is whether the post was a sanctioned post and whether there was surplus staffs, who should be then transferred to the sanctioned post or fresh appointment should be made.

5. The learned Additional Government Pleader stated that the respondents would consider the fresh proposal submitted by the petitioner on 09.10.2023. If that is to be considered, then the impugned order has to be set aside.

6. The impugned orders are hereby set aside. A direction is issued to the fourth respondent at the first instance the fourth respondent/the District Educational Officer, Chennai North, Chennai to examine the fresh proposal given 09.10.2023 which had been referred and for which direction is given to the petitioner to resubmit. The fourth respondent may thereafter put up his remarks to the third respondent who has to pass appropriate orders. The entire exercise by the fourth and third respondents is to be completed within a period of four months from the date of which fresh proposal dated 09.10.2023 is resubmitted by the petitioner herein.



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Index : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

To

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