

W.P.(MD)No.2979 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.2979 of 2025
and
W.M.P(MD).Nos.2072 and 2073 of 2025

S.L.Angel Niruba

... Petitioner

VS.

1.The Director of School Education,
College Road, Chennai – 600 009.

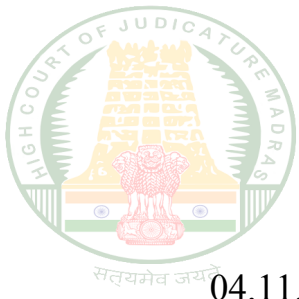
2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

3.The District Educational Officer,
Marthandam,Kanyakumari District.

4.The Correspondent,
Abraham Memorial Higher Secondary School,
Maruthancode,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent Chief Educational Officer in Na.Ka.No.3775/Aa4/2024 dated



W.P.(MD)No.2979 of 2025

04.11.2024, quash the same and direct the second respondent Chief Educational Officer to approve forthwith the appointment of the petitioner as Lab Assistant in the fourth respondent school namely, Abraham Memorial Higher Secondary School, Maruthancode, Kanyakumari District, w.e.f, the date of her appointment viz., 03.06.2019, with all attendant benefits including the arrears of salary and allowances.

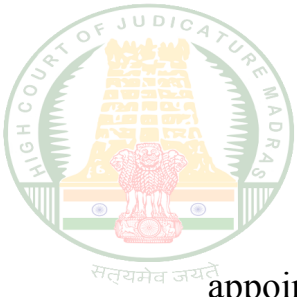
For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

For R1 to R3 : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Heard Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 to 3.

2. The petitioner has filed this petition seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent in Na.Ka.No. 3775/Aa4/2024 dated 04.11.2024, quash the same and direct the second respondent Chief Educational Officer to approve forthwith the



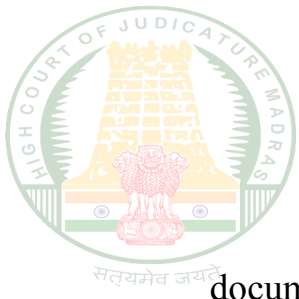
W.P.(MD)No.2979 of 2025

WEB COPY

appointment of the petitioner as Lab Assistant in the fourth respondent school namely, Abraham Memorial Higher Secondary School, Maruthancode, Kanyakumari District, w.e.f, the date of her appointment viz., 03.06.2019, with all attendant benefits including the arrears of salary and allowances.

3. The petitioner was appointed as Lab Assistant in the fourth respondent School on 03.06.2019. In this regard, a proposal was submitted to the second respondent for approval and the same was rejected by impugned order dated 04.11.2024 stating that appointment has been made without following the Rules of Regulation; and that prior permission was not obtained as per Rule 15(4)(c) of the Tamil Nadu Private School Regulation Rules, 1974.

4. Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner submitted that since the post is a non-teaching and single cadre post, prior permission is unnecessary and Rules of Regulation need not be followed. It is further submitted that with regard to the requirement of

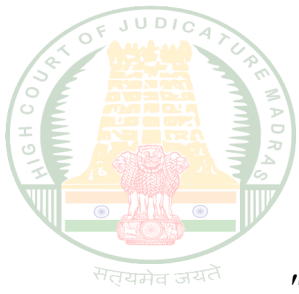


W.P.(MD)No.2979 of 2025

WEB COPY

documents, new Rules came into force only subsequent to the appointment of the petitioner and hence, the impugned order is liable to be set aside.

5. Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that there cannot be any difficulty for the petitioner to submit requisite documents, which are basic requirements and that prior permission ought to be obtained even for non-teaching posts. Attention was drawn to the Judgment of the Principal Seat of this Court in ***W.A.No.900 of 2007 dated 30.04.2008 [R.Kuttiswamy, working as Junior Assistant, Sabhanayaga Mudaliar Hindu Higher Secondary School, Sirkali, Nagapattinam District vs. 1.Joint Director of School Education (Secondary Education), Chennai and three others]***, wherein, it is held that applicability of Rule 15 is relative only in respect of the teaching staffs and the said Rule cannot be invoked for non-teaching staff like Watchman. The relevant paragraph is extracted hereunder.



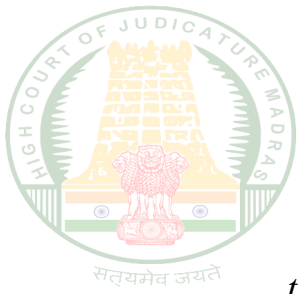
W.P.(MD)No.2979 of 2025

WEB COPY

"5. The decision of the learned single Judge of this Court rendered in A.MURUGESAN V. STATE OF TAMIL NADU (2007 (4) MLJ 561) holding that rule 15 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 will apply only to teaching staff and with regard to the appointment of non-teaching staff, there is no need to get prior permission from the educational authorities is also brought to our notice."

6. In yet another Judgment of the Division Bench of this Court in ***Rev.Aplc.(MD)No.108 of 2018 dated 14.06.2023 [Pankajam Girls Higher Secondary School, Rep. by its Secretary, Bodinayakkanur, Theni District vs. 1.The State of Tamil Nadu, Rep. by its Principal Secretary, School Education Department, Fort. St.George, Chennai - 600 009 and four others]***, it is held that the applicability of the communal roster and reservation in case of single cadre / isolated posts is not needed. The relevant part of the Judgment is extracted hereunder.

"13. In light of the detailed discussion as above, the legal issue in regard to the applicability of the communal roster and reservation in case of single cadre / isolated posts is answered to state that in such instances there can be no application of



W.P.(MD)No.2979 of 2025

WEB COPY

the communal roster at all. To clarify, in the case of a single cadre, isolated post, the communal roster does not apply."

7. With regard to the requirements of other documents like Medical Certificate and Form VI (A), there is a requirement contemplated under the Tamil Nadu Private Schools (Regulation) Rules, 2023. Since the petitioner's appointment was made prior to the said Rules coming into the force and the proposal has been sent as early as on 16.03.2020, the fourth respondent School could not attach the above documents. Since the impugned order has been passed subsequent to the new Rules coming into force, it appears that the second respondent required some more documents as well. Though the Tamil Nadu Private Schools (Regulation) Rules, 2023, were not in force when the petitioner was appointed *i.e.*, on 03.06.2019, there cannot be any difficulty for the fourth respondent School to produce the required documents. In such circumstances, I feel that the the impugned order can be set aside and the matter can be remanded back to the second respondent for fresh consideration.



W.P.(MD)No.2979 of 2025

WEB COPY

8. In view of the above observations, the writ petition is **disposed of** and the impugned order of the third respondent dated 04.11.2024 is set aside and the matter is remanded back to the second respondent for fresh consideration. The fourth respondent School is directed to submit the required documents to the second respondent within a period of two weeks from the date of receipt of a copy of this order and the second respondent is directed to consider the proposal submitted by the fourth respondent School in the light of the above observations and the judicial pronouncements and pass orders afresh by granting approval to the appointment of the petitioner within a period of eight weeks from the date of receipt of the documents. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.02.2025

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
CM



W.P.(MD)No.2979 of 2025

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To

- 1.The Director of School Education,
College Road, Chennai – 600 009.
- 2.The Chief Educational Officer,
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- 3.The District Educational Officer,
Marthandam,Kanyakumari District.



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BATTU DEVANAND, J.

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