

W.A.(MD).Nos.324 & 462 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 28/04/2025

Pronounced on : 24/06/2025

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

AND

THE HONOURABLE Mrs. JUSTICE S.SRIMATHY

WA(MD). No.324 and 462 of 2024

and

WMP.(MD).Nos.3017, 3724, 11184 of 2024

1.The Chief Educational Officer
Theni District.

2.The District Educational Officer
Uthamapalayam
Theni District

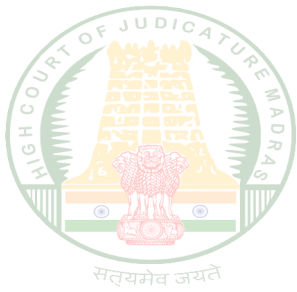
..Appellants/Respondents
in both WAs

VS

Pachayappa High School
Rep. By its Secretary
P.G.Lakshmivasan
Uppukottai
Bodinayakkanur Taluk
Theni District

..Respondent/Writ Petitioner.
in both WAs

Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 30.11.2023 made in W.P.(MD).No.25172 of 2023 and W.P.(MD).No.25100 of 2023.



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W.A.(MD).Nos.324 & 462 of 2024

For Appellants : Mr.J.Ashok, Addl.Govt.Pleader

For Respondent : Mr.R.Suriyanarayanan

COMMON JUDGMENT

J.NISHA BANU, J.

The above Writ Appeals have been filed praying to set aside the order dated 30.11.2023 made in W.P.(MD).No.25172 of 2023 and W.P.(MD).No. 25100 of 2023.

2. The respondent-School filed W.P.Nos.25172 of 2023 and 25100 of 2023 challenging the order passed by the first respondent/first appellant herein wherein, appointment of Sweeper and Record Clerk has not been proved. The school has taken the stand that the above said non teaching staff were appointed on 15.02.2018 and the proposal was sent to the authorities for approving their appointment. Since the first respondent/1st appellant rejected the said proposal, the school filed writ petitions seeking to quash the rejection order dated 14.09.2023 and sought direction to approve the appointment of abovesaid non teaching staff. The respondents/appellants stated before the writ court that there



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was an inadvertent mistake and discrepancy occurred in the date of interview and signature of the Headmaster in the selection list.

3. The writ court, referred to a Division Bench order of this court reported in **2021 (6) CTC 594 (The Director of School Education, DPI Campus, College Road, Chennai and 2 others Vs. S.Murugan)**, wherein, it has been categorically held that for filling up the post of sanctioned non-teaching post, there are no rules to seek prior permission from the educational authorities, disposed of the writ petitions with a direction to the respondents to approve the appointment of the non-teaching staff viz., Sweeper and Record Clerk in the petitioner's school with effect from 15.02.2018 with all attendant benefits.

4. Challenging the above said direction, the above writ appeals are filed by the appellants/ Education Department.

5. The grounds raised in the Writ appeal are that the school did not obtain any prior permission from the Chief Educational Officer; the interview was held

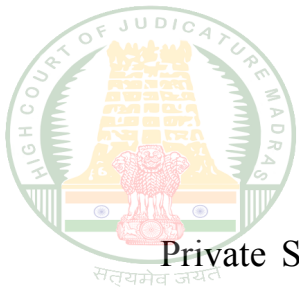


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for the selection of Sweeper and Record Clerk on 09.02.2018 but the Headmaster signed in the interview report on 19.12.2019 after 18 months. Further the posts had fell vacant on 01.06.2010 but the school committee filled the vacancy during the year 2018 after 7 years without passing the resolution in the Committee to fill up such post of sweeper as per Tamil Nadu Private School Regulations Rules 1974.

6. Mr.D.Sadiq Raja, the learned Additional Government Pleader appearing for the appellant would submit that since the posts are non-teaching category, prior permission is necessary for the scrutiny to check as to whether the reservation for appointment is followed or not as per Rule 15(4) of Tamil Nadu Private School Regulations Rules, 1974.

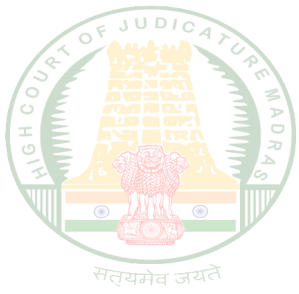
7. Per contra, Mr.R.Suriya Narayanan, learned counsel for the respondent-school would submit that the school has sanctioned post of 1 Assistant, 1 Record Clerk and 1 Sweeper. When the above 3 non teaching staff posts fell vacant, due to the retirement of previous occupied persons, the 1st respondent school by following due procedure under Rule 15 of the Tamil Nadu



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Private School Rules, filled the said vacancies. W.P.MD.Nos.6510, 6508 and 6509 of 2018 have been filed in the year 2019 for approving the above two persons and also one V.Sivagurunathan as Office Assistant. The said writ petitions were disposed of in the year 2019. The appellants approved appointment of V.Sivagurunathan, however, denied approval for Chandrasekar Saraswathy Raja and Poun for the post of Record Clerk and Sweeper by order dated 24.09.2019 on the ground that as per G.O.(Ms).No.238 dated 13.11.2018, the said posts have been terminated and cannot make any new appointment. The learned counsel would submit that the appointment was made on 15.02.2018 and hence the G.O., has no retrospective effect and hence the School challenged the said order by way of W.P.(MD).Nos.21121/2019 and 21123/2019. This Hon'ble court quashed the rejection orders on 08.02.2023 with a direction to the appellants to approve the said appointments.

8. The learned counsel for the respondent-school would submit that the appellant-Department has rejected the applications of the school by order dated 14.09.2023 and 19.09.2023 for the above said posts viz., Record Clerk and Sweeper holding that no prior permission is got before filling up the post .



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9. Again the School filed W.P.(MD).Nos.25100/2023 and 25172/2023 challenging the orders dated 14.09.2023 and 19.09.2023 and the said writ petitions were disposed of by order dated 30.11.2023 holding that the discrepancy in sending the records cannot be doubted and there shall not be any prior permission for the sanctioned posts.

10. The learned counsel for the respondent-School would further submit that there is no necessity to get prior permission for the said appointments and further the School Committee alone made the appointment on 14.02.2018. The signature of the Head master in the fresh proposal is an error, however, the appointments had taken place earlier and they were appointed on 15.02.2018. Subsequent submission of the records by the school was attested by the headmaster on 19.12.2019. The learned counsel further submits that the rejection order of approval of appointments has been challenged before the writ court and the writ court pointing out that prior permission is not necessary for filling up the sanctioned posts for the post of non-teaching staff directed the Chief Educational Officer, Theni, to approve the appointment of the

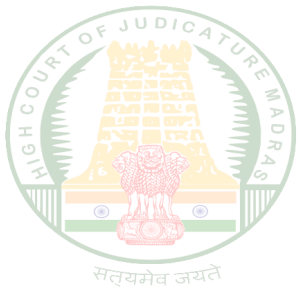


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respondents i.e, non teaching staff in the school with effect from 15.02.2018 with all attendant benefits.

11. Heard both sides.

12. The arguments of the learned Additional Government Pleader seeking to set aside the orders impugned in the writ petitions are that (i) G.O.Ms.No.64 School Education Department dated 03.04.2018 was issued so that the institution ought to engage persons to the post of waterman, sweeper etc through outsourcing. (ii) Group “D” category staff shall be progressively outsourced and entrusted on contract basis on the recommendations of Staff and Expenditure Reforms Commission. Granting of approval to such posts shall cause a huge expenditure on exchequer. Further, the school did not obtain any prior permission from the Chief Educational Officer. Further, as per Tamil Nadu Private School Regulations Rules, 1974, the Secretary shall act on the basis of the resolution passed at the meetings of the School Committee, but the school committee filled the vacancy during the year 2018 without passing the resolution in the committee.



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13. It is seen that the posts became vacant on 2010 and the exercise to fill up the vacancy was undertaken belatedly in 2018. The appointments were made on 15.02.2018 and it is prior to issuance of G.O.Ms.No.64 School Education Department dated 03.04.2018. Further, the school is an aided non minority school. The post of Sweeper and Record Clerk became vacant on 01.06.2010. The school had conducted interview on 09.02.2018 and the appointments were made on 15.02.2018 which is prior to G.O.Ms.No.64 School Education Department dated 03.04.2018. Therefore the school had acted as per the earlier Government Orders, if it is so then the appellants cannot deny approval of appointment.

14. The earliest Government Order in this issue was issued in the year 1966 in G.O.Ms.No.583 School and Public Health Department dated 23.04.1966, wherein the staff fixation was granted as under:-



Categories of Non-Teaching Staff		Number	Strength	
	<i>Below 250</i>	<i>More than 250 but below 1000</i>	<i>More than 1000 but below 1500</i>	<i>More than 1500</i>
Clerks	Nil	Nil	2	3
Librarian or for Clerks Library	Nil	1	Nil	Nil
Attenders for Office	1	1	1	1
Peons	1	1	2	3
Watchman	1	1	1	1
Waterman	-	-	-	-
Gardener Cum Sweeper	-	-	-	-
Gardener	-	-	-	-
Sweeper	1 part time	1 part time	1 part time	1
Scavengers	1 part time	1 part time	1 part time	1

In the present case, as per the staff fixation order for the academic year 2018-2019, the students' strength is 283, hence the school is entitled to one clerk and one part-time sweeper as per the aforesaid G.O.Ms.No.583. But all these years the school was allowed to have one full time sweeper. At this point of time that too a person was appointed in the said post, the same cannot be denied. Therefore, both the appointments ought to be approved.

15. For the reasons stated above, we do not find any ground to interfere



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with the orders impugned in the writ petitions. Accordingly, the Writ Appeals are dismissed. The appellants are directed to approve the appointment of the non-teaching staff of the respondent school namely, Poun as Sweeper and Chandrasekara Saraswathyraja as Record Clerk, with effect from 15.02.2018 with all attendant benefits within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected CMPs are closed.

[J.N.B.,J]

[S.S.Y.,J]

24.06.2025

NCC : Yes/No

Index : Yes/No

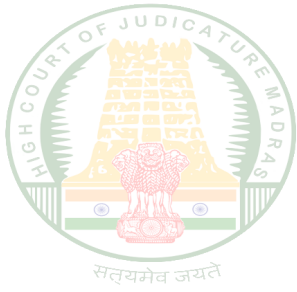
nvsri

To

1.The Chief Educational Officer
Theni District.

2.The District Educational Officer
Uthamapalayam
Theni District

3. The Secretary, Pachayappa High School
Uppukottai, Bodinayakkanur Taluk, Theni District.



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**J.NISHA BANU, J
AND
S.SRIMATHY, J.**

nvsri

**PRE-DELIVERY JUDGMENT
IN
WA.(MD) No.324 and 462 of 2024**

Date : 24/06/2025