



W.P.(MD) No.12121 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
06.11.2025	16.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.12121 of 2025

and W.M.P.(MD) Nos.8392 & 2934 of 2025

The Correspondent,
St.Mary's Boys Higher Secondary School,
Millerpuram,
Thoothukudi – 628 008.

... Petitioner

-VS-

1.The Director of School Education,
College Road, Chennai – 600 006.

2.The Chief Educational Officer,
Thoothukudi, Thoothukudi District.

3.The District Educational Officer (Secondary Education),
Thoothukudi, Thoothukudi District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, 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.6411/Aa4/2024 dated 24.12.2024 and to quash the same and direct the second respondent Chief Educational Officer to approve forthwith the appointment of D.John Juliet as Record Clerk in the petitioner school w.e.f., the date of her appointment viz., 23.01.2024 with all attendant benefits including the arrears of salary and allowances and pass such further or other suitable order.

For Petitioner : Mr.V.Nirmal Kumar

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

This Writ Petition has been filed for challenging the impugned transfer order issued by the second respondent the Chief Educational Officer in his proceedings Na.Ka.No.6411/Aa4/2024 dated 24.12.2024 and for a consequential direction the second respondent Chief Educational Officer to approve forthwith the appointment of D.John Juliet as Record Clerk in the petitioner school w.e.f. The date of her appointment viz., 23.01.2024 with all attendant benefits including the arrears of salary and allowances.

2) Heard Mr.V.Nirmal Kumar, learned counsel appearing for the petitioner



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and Mr.N.Satheeshkumar, learned Additional Government Pleader appearing on behalf of the respondents.

3) The learned counsel for the petitioner would submit that one post of Record Clerk in the petitioner's school fell vacant on 22.01.2024 due to the promotion of the incumbent as Junior Assistant. In the said vacancy, the petitioner had appointed a Record Clerk on 23.01.2024 and had forwarded a proposal to the third respondent on 12.06.2024 to approve the appointment and for disbursal of grant-in-aid. As there was no response, the petitioner was constrained to approach this Court by filing a Writ Petition in W.P.(MD).No.21765 of 2024 and the same was disposed of on 12.09.2024, directing the respondents to consider the proposal, vide the impugned order, the proposal had been rejected holding that there are about 22 Record Clerks declaring as surplus in that District.

4) He would submit that for the staff vacancy for the academic year 2023-24 ie., the period which applied to an appointment of Record Clerk on 2023-24 no surplus had been declared for the petitioner's school. When that being



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so, there can be no impediment in granting approval to the appointment made by the petitioner. Hence, he seeks indulgence of the order impugned herein and as a consequence, to direct the respondents to grant approval to the appointment made by the petitioner.

5) Countering his arguments, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing on behalf of the respondents would submit that for the academic year 2023-24 there were 24 surplus Record Clerks declared in the entire district and similarly for the academic year 2024-25, 22 posts have been fund surplus within the District in the post of Record Clerk. He would further submit that the petitioner without notifying the vacancy that had arisen, on the very next day without verifying the availability of the surplus in the District had filled up the post of Record Clerk. He would submit that right to action is not a fundamental right which involves financial constrain of the Government.

6) That apart, he would submit that the Government had issued G.O. (Ms).No.238, School Education dated 13.11.2018, whereas a stipulation had been



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made to not to make fresh appointments in non-teaching posts till deployment of surplus staffs available in the respective category to the needy places. He would submit that without deployment of such surplus staffs available in the other schools, if the petitioner is allowed to appoint, de hors such surplus staffs in the petitioner's school, it would be unnecessarily create burden on the exchequer. He would further submit that the petitioner being a part of the corporate/ joint management also had not declared that there is no surplus of Record Clerk in the schools of the joint management of which the petitioner is a part of. Hence, he prays this Court to dismiss the Writ Petition.

7) I have considered the submissions made by the learned counsels appearing on either side and perused the materials available.

8) Admittedly, any vacancy had arisen in the post of Record Clerk in the petitioner's school on 22.01.2024. The petitioner had appointed a Record Clerk on the very next day. It is true that the petitioner being a minority institution is not bound by the manner in which the appointments are being made in its institution. But, however, the petitioner cannot make any appointments in a non-transparent



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manner. The petitioner's school had not placed on record the manner in which it had appointed the Record Clerk within 24 hours of it falling vacant. No reasons have also been attributed as to why there was a delay of 5 months in forwarding a proposal to the Authorities seeking for approval for appointment of a Record Clerk.

9) Even though, the restrictions for appointment of a non-teaching staff made in G.O.(Ms).No.238, School Education (SE6(1)) Department, dated 13.11.2018, do not apply to the petitioner's institution as it has more number of students, it is to be noted that the Government order also envisages that the appointments could not be made before the surplus staff in a particular District had been deployed to needy schools. As rightly pointed out by the learned Additional Government Pleader, the Government cannot be burdened by necessitating an approval that too of a non-teaching staff to the post where surplus is available for deployment to the needy schools. Had the petitioner notified the vacancy that would have arisen in the school in the post of Record Clerk to the Authorities, the Authorities would have taken steps to deploy the



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available surplus teachers to the petitioner's school. As noted supra the manner in which the vacancy had been filled within 24 hours also creates a doubt in the mind of the Court with regard to the absence of transparency in filling up the post which is akin to the public employment as the incumbent is entitled to receive a Government salary. The right of minority institution to administer a school and to make appointments to the sanctioned post available in the school that too when aid is being provided cannot entitle them to make appointments without due procedure in an non-transparent manner.

10) With the aforesaid reasons, this Court do not find any merits in the Writ Petition and accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

16.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Gba

To:



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- 3.The District Educational Officer (Secondary Education),
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K.KUMARESH BABU, J.

Gba

PRE-DELIVERY ORDER
IN
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and
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