



WEB COPY

WA No. 113 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-01-2026

CORAM

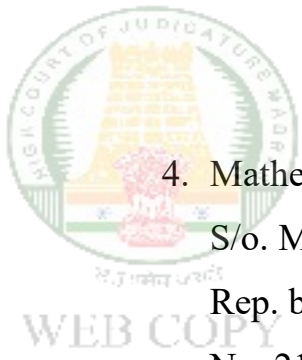
THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE P. DHANABAL

WA No. 113 of 2026

1. J.V.Madhan Raj (died), 1.T.Mehala
W/O. Madhan Raj (Late),
No. 213/2, Kurinji Nagar,
PE. Ponneri, Pennadam,
Tittagudi Taluk, Cuddalore - 606111.
2. Johnselvaraj
S/o.Subburaiyan(Late),
No. 213/2, Kurinji Nagar,
PE. Ponneri, Pennadam,
Tittagudi Taluk, Cuddalore - 606111.
3. Melvina (Minor)
D/o. Madhan Raj (Late),
Rep. by Natural Guardian T.Mehala,
No. 213/2, Kurinji Nagar,
PE. Ponneri, Pennadam,
Tittagudi Taluk, Cuddalore - 606111.



4. Mathew Yeshuraj (Minor)
S/o. Madhan Raj (Late),
Rep. by Natural Guardian T.Mehala,
No. 213/2, Kurinji Nagar,
PE. Ponneri, Pennadam,
Tittagudi Taluk,
Cuddalore - 606111.

Vs

..Appellant(s)

1. The Director
Directorate of Elementary Education, College
Road, Chennai - 600006.
2. The Dist.Educational Officer(Elementary)
District Educational Office,
Virudhachalam 606 001.
3. The Block Educational Officer
Block Education Educational Office, Nallur
4. Danish Mission Elementary School
Rep By Its Correspondent,
P.E. Ponneri, Pennadam 606 111
5. Arcot Lutheran Church
Rep. by the Secretary,
Church Road,
Bharathi Road, Cuddalore.

..Respondent(s)



PRAYER: The Writ Appeal has been filed under Clause 15 of the Letters Patent to set aside the order passed by the Hon'ble Court in WP. No.16732 of 2024 dated 31-10-2025.

For Appellant(s): Mr. S.Nedunchezhiyan
For Respondent(s): Mr. J.C. Durairaj,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by P.Dhanabal J.)

The Writ Appeal has been filed as against the order passed by the Writ Court in W.P. No.16732 of 2024, wherein the appellant herein filed a Writ petition challenging the order passed by the 2nd respondent dated 25.09.2023 thereby rejecting the proposal sent by the 4th respondent for approval of his appointment to the post of Secondary Grade Teacher in the 4th respondent School. The Writ Court dismissed the Writ petition. Aggrieved by the said order, the present Writ appeal has been filed.

2. **The short facts necessary to dispose of the Writ appeal are as follows:**

The 4th respondent School is an Aided Religious Minority institution. One J.V. Madhan Raj, the 1st petitioner in the Writ petition, was appointed as Secondary Grade Teacher on 21.11.2016 in the place of a deployed teacher



without any vacancy in the 4th respondent School. During the academic year 2016-2017, the 2nd respondent found two Secondary Grade Teachers posts surplus on account of short fall of students' strength. Therefore, the 4th respondent had deployed one Prema Gnana Sownthari as a Secondary Grade Teacher to another School in the same cadre. While so, the Writ petitioner J. V. Madhan Raj was appointed as a Secondary Grade Teacher on 21.11.2016. Thereafter, the proposal sent by the 4th respondent for approval of the appointment of Madhanraj was rejected on 08.12.2019. Thereafter, another vacancy arose in the post of Secondary Grade Teacher on 01.06.2018 in the 4th respondent School, due to the retirement of one D. Iyappan Joseph Jayakumar. During the academic year 2018-2019, the student's strength was increased to 71 and as such, the 4th respondent School was entitled to have three posts. In the said posts, the petitioner was appointed and he joined duty on 21.01.2019. Again the 4th respondent submitted a proposal to the 2nd respondent for approval and the same was rejected by the 2nd respondent on 08.12.2019 on the ground that the respondent School is entitled only for three posts as per the Students' strength.

2.1. Thereafter, the said order was challenged through W.P. No.1251 of 2020. Simultaneously, the petitioner in W.P. No.16732 of 2024 also filed another petition in W.P. No.2119 of 2020 challenging the rejection order of approval dated 08.12.2019. This Court directed the 2nd respondent to re-



consider for approval of the appointment of the petitioner and the same was rejected on 30.11.2022 and the same was challenged through W.P. No.727 of 2023 and this Court, again passed an order dated 05.07.2023 to reconsider the proposal for approving the appointment of the petitioner. Once again, the 2nd respondent rejected the petition and the same was challenged through W.P. No.25187 of 2023 and the same was allowed through an order dated 02.02.2024. As against the same, a Writ appeal in W.A. No.2599 of 2024 was filed. The Hon'ble Division Bench of this Court directed the 2nd respondent to pass orders, if the said proposals satisfy the norms prescribed for such appointment and as per the Rules, within a period of 12 weeks and the same was also rejected. Therefore, the petitioner filed the impugned Writ petition. The Writ Court, after perusing the records, observed that the Writ petitioner was appointed as a 'Secondary Grade Assistant Teacher in the 4th respondent School without any vacancy in the surplus post. Two Secondary Grade Teachers were found surplus in the 4th respondent School as per the Staff fixation statement for the academic year 2016-2017. The appointment of one J. Prema Gnana Soundari was transferred from the 4th respondent School to another School under the same cadre. Therefore, it cannot be considered as an eligible vacancy for filling up the said post. Transfer from one School to another School under the same management cannot be considered as a new permanent vacancy. Therefore, dismissed the Writ petition. Aggrieved by the same, the present Writ appeal has been filed.



3. During the pendency of the Writ petition, the Writ petitioner died and his legal heirs were impleaded as parties.

4. The learned counsel appearing for the appellants would submit that the husband of the 1st appellant namely J.V. Madhan Raj was selected and appointed as a Secondary Grade Teacher in the 4th respondent School by a resolution passed by the 5th respondent dated 18.11.2016 with effect from 21.11.2016 due to vacancy arise due to the transfer of J. Prema Gnana Soundari and he continued to do his duty. The transfer of Prema Gnana Soundari was also approved by the respondent department. Consequent to the appointment of the said Prema Gnana Soundari, the 4th respondent School has forwarded the proposal to the 3rd respondent seeking for approval for appointment with effect from 21.11.2016 and the same was returned with certain queries. After rectifying the same, again it was sent for approval on 25.01.2019. The deceased J.V.Madhan Raj also sent a representation dated 30.01.2019 to the 2nd and 3rd respondents, but no response from them. Therefore, he filed a Writ petition in W.P No.29463 of 2019 and the same was disposed of by directing the 2nd respondent to consider the representation through an order dated 15.10.2019. The 2nd respondent had issued proceedings dated 08.12.2019 stating that his appointment has been made in surplus post as per the G.O. (Ms) No.165 dated 17.09.2019 and during the year 2016-2017, there was surplus teachers working in the School under the same management and therefore, his appointment cannot be approved. The said order was challenged through W.P. No.2119 of



2020 and the said order was set aside and the matter was remanded back to the 2nd respondent to consider and pass orders within 12 weeks. Again the 2nd respondent issued Proceedings dated 30.11.2022 on the very same grounds. Thereafter, the deceased filed a Writ petition in W.P. No.1677 of 2023 and the same was quashed by this Court through an order dated 07.08.2023, wherein, this Court referred the case in Writ Appeal in W.A. (MD) No.76 of 2019 and remanded back the matter to the 2nd respondent to consider and pass orders through an order dated 31.03.2021. The 2nd respondent passed the impugned order dated 25.09.2023 that the appointment has been made in the surplus post, he cannot be approved to the post as it cannot be treated as sanctioned post in the 4th respondent School. As per the order dated 17.04.2012 in W.P. No.2710 of 2012, proposal cannot be rejected on different queries in subsequent applications for the same cause. Once the transfer vacancy is being duly approved by the authority concerned, then the said post is eligible to fill with eligible person. Without considering the same, the Writ Court passed the order. Therefore, the order passed by the Writ Court is liable to be set aside.

5. The learned Additional Government Pleader would submit that the 1st petitioner namely J.V. Madhan Raj was appointed by the 4th respondent School without any vacancy in the surplus post. Two Secondary Grade Teachers posts were found surplus in the 4th respondent School as per the Staff Fixation statement for the academic year 2016-2017. The appointment of one Prema



Gnana Soundari was transferred from 4th respondent School to another School under the same cadre. Therefore, transfer from one School to another School under the same management cannot be considered as a new permanent vacancy and the same cannot be considered as an eligible vacancy for filling up the said post. Therefore, the 2nd respondent rejected the request of the 4th respondent for approval of the appointment of the Writ appellant's husband J.V Madhan Raj for the post of Secondary Grade Teacher in the 4th respondent School. Therefore, there is no perversity in the order passed by the Writ Court and the order is a very reasoned one and therefore, the Writ appeal has no merits and the same is liable to be dismissed.

6. Heard both sides and perused the entire materials available on record.

7. It is an admitted fact that the deceased J.V. Madhan Raj was appointed as a Secondary Grade Assistant Teacher by the 4th respondent. The 4th respondent School is an Aided Religious Minority Institution and the deceased J.V. Madhan Raj was appointed as a Secondary Grade Teacher on 21.11.2016 in the place of a deployed teacher without any vacancy in the 4th respondent School. The appointment given to the deceased was not a sanctioned post. Therefore, the 4th respondent sent a proposal for approval of the said appointment of the deceased J.V. Madhan Raj and the same was rejected and thereafter, so many representations have been filed and this Court directed the



2nd respondent to consider the representations. Finally the 2nd respondent passed the impugned order in the Writ petition stating that the Writ petitioner namely J.V. Madhan Raj was appointed for the post of one Prema Gnana Soundari, who was transferred from the 4th respondent School to another School under the same management and hence the appointment of the deceased, cannot be considered as new permanent vacancy. The appointment of Prema Gnana Soundari was transferred from the 4th respondent School to another School under the same cadre. Therefore, it cannot be considered as an eligible vacancy for filling up the said post. The Writ Court also considered the same and held as follows:-

11. The deceased petitioner in W.P. NO.16732 of 2024 was appointed as a Secondary Grade Assistant Teacher in the fourth respondent School without any vacancy in the surplus post. Two Secondary Grade Teachers were found surplus in the fourth respondent School as per the Staff fixation statement for the academic year 2016 to 2017. The appointment of one J. Prema Gnana Soundari was transferred from the fourth respondent School to another School under the same cadre. Therefore, it cannot be considered as an eligible vacancy for filling up the said post. Transfer from one School to another School under the same management cannot be considered as a new permanent vacancy. Further, there are only 27 teachers identified as surplus in the 2017-2018 and 26 teachers were identified surplus in the year 2018 to 2019. Therefore, if there are any surplus teachers to be found in various Schools under the same Management, then a vacancy in any of such Schools should only be filled by transferring those surplus persons.

12. Therefore, the appointment of the petitioner in W.P. No.16732 of 2024 was not approved by the second respondent and this Court finds no infirmity or illegality in the order passed by the second respondent in W.P. No.16732 of 2024 and the Writ petition is devoid of merits and is liable to be dismissed.



8. Therefore, the said order is a reasoned one and this Court warrants no interference. However, since the 4th respondent appointed the deceased J.V. Madhan Raj as an employee on 21.11.2016 without any vacancy and extracted work from him, it is for the appellants to take appropriate steps for arrears of salary, if any and other compensation as against the 4th respondent in accordance with law. The appellants are at liberty to initiate appropriate steps in accordance with law as against the 4th respondent through separate proceedings.

9. Accordingly, with the above said liberty this ***Writ appeal is dismissed.***
There shall be no order as to costs.

(R.S.K.J.) (P.D.B.J.)
27-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MJS



To

1. The Director
Directorate of Elementary Education,
College Road, Chennai – 600006.
2. The District Educational Officer(Elementary)
District Educational Office,
Virudhachalam 606 001.
3. The Block Educational Officer
Block Education Educational Office, Nallur.



WEB COPY

WA No. 113 of 2



**R.SURESH KUMAR, J.
AND
P.DHANABAL, J.**

MJS

WA No. 113 of 2026

27-01-2026