



W.A.(MD) No.135 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2026

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.A.(MD) No.135 of 2025
and
C.M.P.(MD) No.890 of 2025**

- 1.The Secretary to Government
Education Department
State of Tamil Nadu
Fort St.George, Chennai-9
- 2.The Director of School Education
College Road, Chennai-6
- 3.The Chief Educational Officer
Tenkasi District, Tenkasi
- 4.The District Educational Officer
Tenkasi District, Tenkasi

... Appellants

-vs-

- 1.Sivanarayanaperumal
- 2.The Correspondent
Seeniyammal High School
Sinthamani, Puliyangudi
Tenkasi District

... Respondents



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 19.07.2024, passed in W.P.(MD) No.15072 of 2024, on the file of this Court.

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondents : Mr.S.Chellapandian for R1

J U D G M E N T

[Judgment of the Court was made by DR.G.JAYACHANDRAN, J.]

The second respondent – School sought for approval from the appellants for the appointment of the first respondent to the post of Office Assistant in their School, vide their representation dated 05.12.2023 and the said request was rejected by the District Educational Officer vide proceedings dated 10.05.2024 citing the Government Order in G.O.Ms.No.238, School Education Department, dated 13.11.2018, which mandates that any vacancy in the Aided School must be filled up from the surplus in the same post available in the other schools and only after exhausting the surplus, fresh appointment can be made. However, the said Government Order has been stayed by this Court in W.A.(MD) No.816 of 2023 and the said writ appeal is



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pending disposal before this Court. In the said circumstances, the refusal to grant permission for the appointment of the first respondent to the post of Office Assistant was challenged by the first respondent by filing the writ petition in W.P.(MD) No.15072 of 2024, in which the learned Single Judge has passed the following order on 19.07.2024:

“4. In the impugned order, it is stated that after filling up the surplus posts in minority schools in the revenue District, fresh appointment can be made in the 5th respondent school and only for such a proposal the respondent can give approval. So far as the 5th respondent school is concerned it is an aided minority school. So, the question of filling up the vacancy by deploying in minority schools in the revenue district will not arise in view of the special status of minority schools and the autonomy assured to them under Article 30 of the Constitution of India. The other reference that is seen in the impugned order is about the G.O.Ms.No.238 School Education Department dated 13.11.2018. Even the above Government Order speaks about the surplus posts of the District Level and the petitioner's school which is a minority institution cannot be expected to accommodate the surplus posts even in accordance with G.O.Ms.No.238 School Education Department dated 13.11.2018.



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5. Mr.M.Siddharthan, learned Additional Government Pleader for the respondents submitted that legality of G.O.238 School Education Department dated 13.11.2018 has been upheld by this Court in W.P(MD)No.13428 of 2020. In the said order, the applicability of the above said Government Order relating to the minority institutions have also been dealt and is held as under:

"9.Article 30 of the Constitution of India guarantees right to establish and administer educational institutions by minorities. The impugned G.O does not in any way constitute an inroad into that right. The management can very well appoint as many persons as they want. All that the G.O states is that the government will not be in a position to fund such appointments beyond what has been already provided. In *Chandana Das v. State of W.B* (2015) 12 SCC 140, it was noted that grant-in-aid is not included in the guarantee contained in the Constitution to linguistic and religious minorities for establishing and running their educational institutions. Of course, such grant cannot be denied to such institutions only because the institutions are established by linguistic or religious



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minority. Grant-in-aid cannot be made subservient to conditions which deprive the institution of their substantive right of administering such institutions. This proposition was affirmed when reference was made to a larger bench [(2020) 13 SCC 411]. The above proposition was approvingly quoted in *Christian Medical College Vellore Association v. UOI* (2020) 8 SCC 705. The petitioners cannot complain of discrimination. The aforesaid G.O applies across the board to all educational institutions receiving aid irrespective of whether they are minority institutions or non minority institutions. There is no infraction of the equality principle enshrined in Article 14 of the Constitution of India."

6. However, the subject matter was pending in W.A(MD)No.816 of 2023 which has been filed by some other petitioner and in which a portion of G.O.Ms.No.238 School Education Department dated 13.11.2018 has been stayed. The respondent has got no quarrel as regards the vacancy position of Office Assistant and that it is a sanctioned post of the relevant academic year. But the objection was regard to the implication of G.O.No.238 School Education Department dated 13.11.2018. Since the matter is



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subjudice, the respondent can give approval to the proposal submitted by the petitioner subject to the outcome of W.A.(MD)No.816 of 2023.

7. With the above observation, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.”

2. Challenging the said order, the present writ appeal has been preferred.

3. Learned counsel appearing for the first respondent / writ petitioner submitted that when the District Educational Officer has rejected the application submitted by the second respondent – School for approval to the appointment of the first respondent to the post of Office Assistant citing surplus staff, the Chief Educational Officer has subsequently granted approval to the other schools vide proceedings dated 07.05.2025 and 23.09.2025. When this was brought to the notice of the Chief Educational Officer by the Correspondent of the second respondent – School, he had informed, vide his letter dated 25.09.2025, that the request of the second respondent – School will be considered after disposal of the present writ appeal.



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4. The reason for not granting approval to the appointment of the first respondent by the second respondent – School as well as for not implementing the order of the learned Single Judge citing pendency of this writ appeal despite all the vacancies in the cadre of Office Assistant has been exhausted, is perverse, illegal and to be reprimanded. Citing the pendency of the writ appeal preferred by appellants cannot be a reason for not implementing the Court order. Hence, we are not inclined to entertain this writ appeal.

5. Accordingly, this writ appeal is dismissed. The appellants are directed to grant approval to the appointment of the first respondent in the second respondent – School to the post of Office Assistant within a period of fifteen days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

[G.J., J.]

[K.K.R.K., J.]

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

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