

W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD)No.1300 of 2022

and

W.A.(MD)No.1930 of 2023

and

C.M.P.(MD)No.10071 of 2022

and

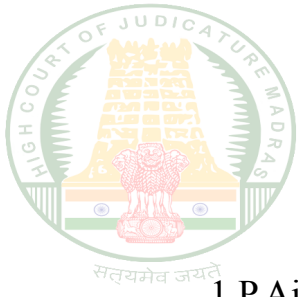
C.M.P.(MD)No.14964 of 2023

W.A.(MD)No.1300 of 2022:-

- 1.The State of Tamil Nadu
Rep. by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
Kuzhithurai Educational District,
Kuzhithurai, Kanyakumari District.

... Appellants

Vs.



W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

1.P.Ajitha
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2.The Secretary,
Sree Devi Girls Higher Secondary School,
Kollemcode - 629 160,
Kanyakumari District.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.5553 of 2016 dated 25.10.2021 on the file of this Court.

For Appellants : Mr.C.Venkateshkumar,
Spl. Government Pleader.

For Respondents : Mr.Isaac Mohanlal, Senior Counsel,
For M/s.Isaac Chambers for R1.
Mr.S.Meenaskhsi Sundaram, Senior Counsel,
For Mr.B.Christopher for R2.

W.A.(MD)No.1930 of 2023:-

1.The Director of School Education,
(Higher Secondary School),
D.P.I. Campus, College Road,
Chennai - 600 006.

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

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

... Appellants



W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

Vs.

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Kumari Girija

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.10063 of 2012 dated 25.10.2021 on the file of this Court.

For Appellants : Mr.C.Venkateshkumar,
Spl. Government Pleader.

For Respondent : Mrs.J.Anandhavalli

COMMON JUDGMENT
(By G.R.SWAMINATHAN, J.)

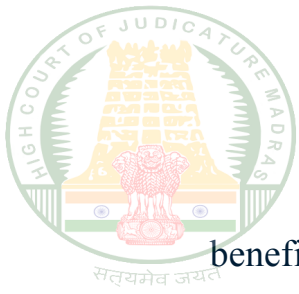
The State is on appeal challenging the common order dated 25.10.2021 passed by the learned Single Judge allowing W.P.(MD)No.10063 of 2012 and W.P.(MD)No.5553 of 2016.

2.The case on hand pertains to the affairs of Sree Bhakdrakali Educational Trust. The management of the school claimed to be a minority institution. They obtained decree in their favour on 09.04.1991 in O.S.No.5934 of 1987 on the file of the City Civil Court, Madras. The



W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

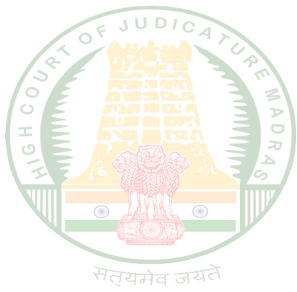
government filed A.S.No.300 of 1992 and the decree of the trial court was reversed on 18.08.1993. The management filed S.A.No.1740 of 1993 and the same was dismissed on 29.04.2005. During the intervening period, the management enjoyed interim injunction in their favour. Whiles, vacancy arose in the post of Headmistress on 31.05.2004. In the resulting vacancy, Kumari Girija, the petitioner in W.P.(MD)No.10063 of 2012 officiated in in-charge capacity. She continued to function in the said capacity till her retirement on 31.05.2011. Since Kumari Girija had been officiating as in-charge Headmistress, to the post of P.G. Assistant (English) held by her, Ajitha, the petitioner in W.P.(MD)No.5553 of 2016 was promoted. Kumari Girija during her service approached the Director of School Education for regularly promoting her to the post of Headmistress with effect from 01.06.2004. She was called upon to move the District Educational Officer, Kuzhithurai. The District Educational Officer, Kuzhithurai did not consider her representation. Therefore, Kumari Girija filed W.P.(MD)No.3251 of 2011 seeking Mandamus for directing the District Educational Officer, Kuzhithurai to promote her as Higher Secondary School Headmistress and also disburse the consequential monetary



W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

benefits. The writ petition was disposed with a direction to the authority concerned to pass final order on her representation. The competent authority rejected Kumari Girija's request vide order dated 02.06.2011. Challenging the same, Kumari Girija filed W.P.(MD)No.10063 of 2012. Likewise, the request of Ajitha to approve her appointment as P.G Assistant (English) with effect from 01.06.2004 was also rejected. Challenging the same, Ajitha filed W.P.(MD)No.5553 of 2016 and W.P.(MD)No.2228 of 2017. The learned Single Judge as already mentioned by common order dated 25.10.2021 allowed the writ petitions in the following terms:-

“11.From the averments made in the affidavit filed in support of these Writ Petitions and the counter affidavit filed in W.P.(MD)No.10063 of 2012, this Court has no reason to disbelieve the statements on facts. The fifth respondent School, in which the petitioners were in service, was enjoying the status of minority till the disposal of S.A.No.1740 of 1997 on 29.04.2005. Therefore, the appointment of the petitioner in W.P.(MD)No.2228 of 2017 with effect from 01.06.2004 is valid. The appointment of the petitioner in W.P.(MD)No.2228 of 2017, dated 01.06.2004, was by the Secretary of the School as per the resolution passed by the School Committee. The petitioners were discharging their duties as Headmistress and P.G.Assistant respectively from 01.06.2004. Hence, one can expect that the Teachers should get



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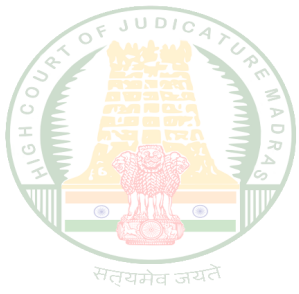


W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

the statutory benefits. Unfortunately, for the Teachers, there was some dispute in the management and the petitioners' appointment with effect from 01.06.2004 was not approved as there was no request for approval except the representations of the petitioners.

12. When the fourth respondent was appointed as Special Officer of the School, the Teacher, namely, the petitioner in W.P.(MD)No.5553 of 2016, was functioning under the fourth respondent who was in place as Educational Agency. Unfortunately, he failed to seek approval nor claim grant. Due to the dispute in the fifth respondent School, the State Government issued G.O.Ms.No.154, dated in exercise of its power under Section 53A of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, brought the School under direct management. It is not in dispute that the dispute was pending before the Civil Court and therefore, the Special Officer, who was appointed in terms of Section 53A(2) of the Act, is expected to discharge the functions of Educational Agency, the School Committee or the Secretary in relation to the fifth respondent School.

13. When the fourth respondent was entrusted to act as Educational Agency or the Secretary of the School, the fourth respondent failed to discharge the function of the Educational Agency or the School Committee with a wrong notion that he cannot play a dual role. The fourth respondent knew that the petitioner in W.P.(MD)No.5553 of 2016 was appointed as a



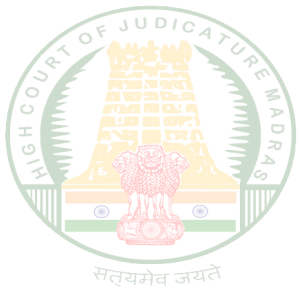
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W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

Teacher with effect from 01.06.2004 and the fourth respondent has admitted in the counter affidavit that the petitioner in W.P.(MD)No.10063 of 2012 was functioning as Headmistress. For want of approval, the petitioner in W.P.(MD)No.5553 of 2016 was working as Teacher without salary, whereas, the petitioner in W.P.(MD)No.10063 of 2012 is working as Headmistress in-charge of the School till her retirement without any monetary benefits. This Court is of the view that the petitioners in these Writ Petitions have suffered monetary loss on account of the indifferent attitude of the fourth respondent. The fourth respondent, who was duty bound to claim salary for the petitioner in W.P.(MD)No.5553 of 2016 after giving approval and to approve the appointment of the petitioner in W.P.(MD)No.10063 of 2012, has expressed his hesitation because of his understanding that he can give approval, if the appointment is made by the Secretary or management of the School, but, he cannot approve the appointment after appointing a person as Headmistress. He miserably failed to recognise his duty as a Special Officer acting in the place of Educational Agency and the School Committee.

14.It may be true that the petitioner in W.P.(MD)No.10063 of 2012 was never appointed as Headmistress. However, the petitioner was in-charge Headmistress with effect from 01.06.2004. When the fourth respondent was the Special Officer of the School, it was his duty to see that the petitioner, who is senior most in the School, is appointed as Headmistress of the



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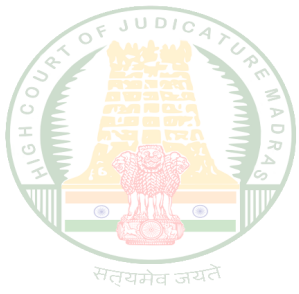


W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

School, if he was supposed to discharge his duty as Special Officer in the place of regular management of the School.

15. Similarly, in the case of the Teacher, the petitioner in other two Writ Petitions, was appointed by the then management, which was enjoying the minority status then. The fourth respondent/Special Officer did not take care to seek approval for the appointment of the Teacher. Hence, this Court is of the view that there may be some technical reasons for immediately approving the appointment of petitioner in these Writ Petitions, as Headmistress of the School and as P.G.Assistant (English), as the case may be. The unfortunate situation for both the Teachers, therefore, appears to be on account of total indifference, negligence and lack of prudence exhibited by the Special Officer of the School.

16. The petitioner in W.P.(MD)No.5553 of 2016, who was appointed with effect from 01.06.2006, was made to submit a representation to seek approval for her appointment with effect from the date of her re-appointment, ie., from 01.06.2011, out of frustration. Unfortunately, the second appointment was even before the new Office bearers were recognised by the Education Department. The Special Officer continued in Office till the dispute was resolved. It is stated that the dispute in the management was settled and the new set of Office bearers got elected and took over the administration of the School on 02.01.2011. However, only in March 2014, the Joint Director of



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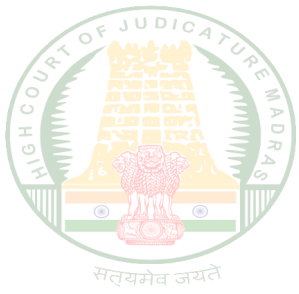


W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

School Education approved the new Educational Agency. However, the request for recognition for the new management had been submitted even in 2011. Thereafter, the new administration has sought for approval for approving the appointment by the management from the date on which they assumed office.

17.This Court is not concerned about what has happened to other appointments. However, the appointments of the petitioners in these Writ Petitions are concerned, this Court is unable to see any irregularity at the time when they assumed charge. While the petitioner in W.P.(MD)No.5553 of 2016 was discharging her duty as Teacher with effect from 01.06.2004, the petitioner in W.P.(MD)No.10063 of 2012 was serving as Headmistress of the School till her retirement. It is unfortunate that the petitioner in W.P.(MD)No.5553 of 2016 is deprived of her salary for a long period from 01.06.2004 till date and the petitioner in W.P.(MD)No.10063 of 2012 is deprived of her emoluments as Headmistress of the School, even though she was drawing the salary of P.G.Assistant.

18.In the peculiar circumstances of the case, this Court though has found some procedural lapses on account of total inaction on the part of the Special Officer, is unable to decline relief to the petitioners, especially having regard to their statutory rights to get approval and get salary with effect from the date of their appointment or promotion, irrespective of the delay, which



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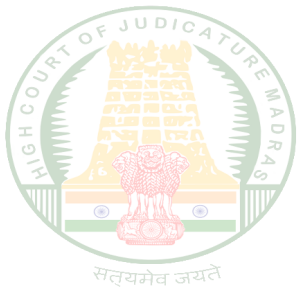
W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

occurred for no fault of them. As regards the petitioner in W.P.(MD)No.5553 of 2016, if the petitioner is deprived of her salary, that would amount to depriving her right to livelihood given under Article 21 of Constitution of India. This Court is of the firm view that depriving the petitioners of their legitimate salary in the factual background, would only result in denial of justice.

19.Hence, in exercise of the power under Article 226 of Constitution of India, this Court is inclined to allow all the Writ Petitions. Accordingly, these Writ Petitions are allowed in the following lines:

19.1.The order impugned in W.P.(MD)No.10063 of 2012 is quashed and the respondents are directed to approve the promotion of petitioner as Higher Secondary Headmistress in Sree Devi Girls Higher Secondary School, Kollancode, with effect from 01.06.2004 and to count the service of the petitioner as in-charge of the Headmistress of the School from 01.06.2004 to 30.06.2010 and confer her all the monetary benefits, which are due for the period from 01.06.2004 to 30.06.2010, which shall also enable her to get the retirement benefits refixed accordingly. The respondents shall disburse the monetary benefits.

19.2.The order impugned in W.P.(MD)No.5553 of 2016, insofar it relates to the petitioner is quashed. The respondents 3 to 5 are directed to approve the appointment of the petitioner as



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W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

P.G.Assistant (English) in the fifth respondent School with effect from 01.06.2004 with all attendant benefits including salary and allowances from the date of her appointment. The respondents shall disburse the salary and other benefits accordingly.

19.3.In view of the passed order in W.P.(MD)No.5553 of 2016 and the reasons stated above, the order impugned in W.P.(MD)No.2228 of 2017, dated 16.09.2016 is quashed. However, no further direction is necessary in view of the direction already issued by this Court in W.P.(MD)No.5556 of 2016.

19.4.The entire exercise shall be done by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.”

Aggrieved by the same, these writ appeals have been filed.

3.The learned Special Government Pleader for the appellants contended that the order of the learned Single Judge runs counter to the statutory scheme set out in the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules framed thereunder.

4.The learned counsel appearing for Kumari Girija, the learned senior counsel appearing for the management and the learned senior counsel appearing for Ajitha strongly contended that the order of the



W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

learned Single Judge has to be sustained. They point out that the school in question did have sanctioned posts during the relevant time and by sustaining the order of the learned Single Judge, the State will not suffer any financial loss. They also would add that it is beyond dispute that Kumari Girija had been functioning as Headmistress master from 01.06.2004 and Ajitha has been working as P.G.Assistant (English) with effect from 01.06.2004.

5.We carefully considered the rival contentions and went through the materials on record. It is true that the school in question was originally declared to be a minority institution by the City Civil Court, Madras. But the first appellate Court reversed the said declaratory decree and held that the school in question is not a minority institution. The High Court also dismissed S.A.No.1740 of 1993 filed by the management on 29.04.2005. The resulting consequence is that the school in question should always be considered only as a non-minority institution. Once this finding is arrived at, the corollary is that only a regularly constituted and approved school committee can make appointments and promotions. It is also to be noted that even though the



W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

management enjoyed interim injunction till the dismissal of the second appeal on 29.04.2005, it had not formally promoted Kumari Girija as Headmistress. Kumari Girija was only a P.G.Assistant (English). It is true that following the retirement of one Ambika Devi on 31.05.2004, vacancy arose in the post of Headmistress. But then, the management did not formally promote her to the said post and she was only asked to officiate as Headmistress. In fact, a mere look at the representations submitted by Kumari Girija right through her service as well as the writ prayer would indicate that she was demanding promotion to the said post with effect from 01.06.2004. There is no question of deemed promotion in such cases. A regularly constituted and approved school committee alone could have formally promoted and since such a committee had never promoted Kumari Girija, her request for formal promotion cannot be acceded to. In such matters, equitable consideration cannot be at play. The learned Single Judge focused on what should have been done by the Special Officer. That was not the issue. The question that should have been posed was whether Kumari Girija was ever promoted to the post of Headmistress and whether vacancy in the post of P.G.Assistant (English) held by Kumari Girija fell vacant. Record shows that Kumari Girija was

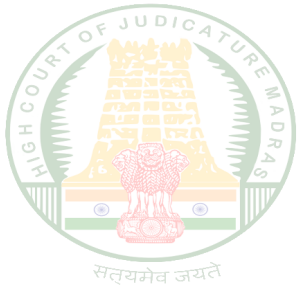


W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

never promoted to the post of Headmistress and vacancy in the post of P.G.Assistant (English) fell vacant only on 31.05.2011.

6.In this view of the matter, the order dated 25.10.2021 allowing W.P.(MD)No.10063 of 2012 is set aside and W.A.(MD)No.1930 of 2023 is allowed.

7.Even though Kumari Girija retired on 30.06.2010, she was reemployed and she continued to work till 31.05.2011. Thus, vacancy arose in the post of P.G.Assistant (English) only on the said date. Following the resolution of the *interse* management disputes, a school committee came to be formed and the said committee subsequently appointed Ajitha as P.G.Assistant (English) with effect from 01.06.2011. Proposal in this regard was also submitted to the department. We direct the department / competent authority to approve the appointment of Ajitha as P.G.Assistant (English) with effect from 01.06.2011 and disburse all the consequential monetary benefits. The benefits payable to her shall be settled within a period of twelve weeks from the date of receipt of a copy of this order.



W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

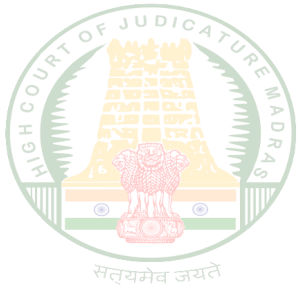
8.In this view of the matter, the order of the learned Single Judge made in W.P.(MD)No.5553 of 2016 is modified and W.A.(MD)No.1300 of 2022 is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

**(G.R.S. J.,) & (K.R.S. J.,)
22.07.2025**

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

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Chief Educational Officer,
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W.A.(MD)No.1300 of 2022 & W.A.(MD)No.1930 of 2023

G.R.SWAMINATHAN, J.
and
K.RAJASEKAR, J.

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W.A.(MD)No.1300 of 2022
and
W.A.(MD)No.1930 of 2023

22.07.2025