



W.P.(MD)No.15285 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.15285 of 2020

Suyambulinlgam Higher Secondary School,
represented through its Secretary,
S.J.Gurusamy Pandian,
Tirunelveli District.

... Petitioner

vs.

1.The Director of School Education, Chennai.

2.The Joint Director of School Education (Secondary),
Chennai-6.

3.The Chief Educational Officer,
Chief Educational Office,
Tenkasi Educational District, Tenkasi District.

4.The District Educational Officer,
District Educational Office,
Sankarankovil, Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the staff fixation order for the academic year 2019-2020 passed by the 3rd respondent in his proceedings in Na.Ka.No. 1505/A2/2020 dated .08.2020 and signed on 14.08.2020 as far as



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removing the Vocational Instructor post and quash the same as illegal and direct the respondents to include one sanctioned post of Vocational Instructor to the school and grant prior permission to fill up the post of Vocational Instructor to the petitioner's School.

For Petitioner :Mr.V.Meenakshi Sundaram
For Respondents :Mr.P.Thambidurai
Government Advocate

ORDER

This Writ Petition has been filed challenging the proceedings of the third respondent in Na.Ka.No.1505/A2/2020 dated 14.08.2020 insofar as removing the Vocational Instructor post from the staff fixation order for the academic year 2019-2020 and for a consequential direction to the respondents to include one sanctioned post of Vocational Instructor to the petitioner school and grant permission to fill up the post.

2.When the matter came up for hearing on 23.11.2023, this Court passed the following order:

“The short issue involved in the present Writ Petition pertains to the impugned proceedings issued by the third respondent, dated 14.08.2020, whereby the sanctioned post of Vocational Instructor was removed/taken away and aggrieved by the same, the present Writ Petition has been filed before this Court.



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2. *The learned counsel for the petitioner submitted that the sanction was given to the post of Vocational Instructor. To substantiate the same, the proceedings of the fourth respondent, dated 17.05.1990, and the proceedings of the fourth respondent, dated 13.05.2014, were relied upon, which mentions the name of the post as "தொழில் ஆசிரியை". The learned counsel for the petitioner submitted that it is a sanctioned post, which cannot be taken away even without putting the petitioner on notice.*

3. *The learned counsel for the petitioner also placed reliance upon G.O. (Ms)No.39, School Education Department, dated 21.03.2003, wherein it was made clear that after 12.07.2002, the School can fill up only the Teachers teaching Sewing and Music. In view of the same, it was submitted that there was no bar in providing sanction for the petitioner School, since the Vocational Teacher was teaching sewing.*

4. *Per contra, the third respondent has taken a stand in the counter affidavit that what was sanctioned to the petitioner School was only the post of Craft Teacher in Sewing and not the post of Vocational Instructor. The third respondent has stated that in order to provide a Craft Teacher in Sewing, which is taught only for standards 6 to 8, the School must have a students strength not below 250 and whereas, the petitioner School has only a strength of 66 students. In view of the same, the petitioner School was not entitled to the post of Craft Teacher and it was taken away.*

5. *The only issue that requires the consideration of this Court is as to whether the sanctioned post pertained to Vocational Instructor or it pertained only to Craft Teacher in Sewing.*

6. *The learned counsel for the petitioner seeks for some time to take instructions in this regard. The learned Government Advocate shall also take instructions in this regard and explain to this Court as to what it means by "தொழில் ஆசிரியை", as is found from the proceedings of the fourth respondent.*

7. *Post this case on 27.11.2023."*



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3. When the matter came up for hearing on 27.11.2023, this Court passed the following order:

“When the matter was taken up for hearing today, it was clarified by the learned counsel for the petitioner and the learned Government Advocate that the post in question does not pertain to a Vocational Teacher and that it is only confined to a Craft Teacher in Sewing.

2. So far as this post is concerned, it was brought to the notice of this Court during the previous hearing that the students' strength must not be below 250 for Standards VI to VIII. The learned counsel for the petitioner submitted that the strength of the students is more than the requirement and there are more than 250 students available.

3. The learned Government Advocate produced the proceedings dated 27.04.1998. A clean copy of the same shall be produced during the next date of hearing. The learned Government also submitted that girl students' strength must be more than 250 and that is the requirement under the regulation.

4. The learned Government Advocate shall produce related documents during the next date of hearing and clarify the stand taken by the Government.

5. Post this Writ Petition on 30.11.2023 under the same caption.”

4. When the matter was taken up for hearing today, the submissions on either side was focused on two Government Orders, viz., G.O.Ms.No. 132, dated 27.04.1998 and G.O.(Ms).No.39, dated 21.03.2003. These Government Orders clarify as to how the post of Graft Teacher in Sewing can be filled up by an aided school.



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5.It will be relevant to take note of G.O.Ms.No.132, dated 27.04.1998 and the relevant portion is extracted hereunder:

“3.பள்ளிக் கல்வி இயக்குநரின் கருத்துருவினை நன்கு ஆய்வு செய்து சிறப்பாசிரியர் (தையல் ஆசிரியர் மற்றும் இசை ஆசிரியர்) மற்றும் இசை ஆசிரியர் நியமனம் குறித்து இருந்து வந்த தடையை அரசு நீக்குகிறது. இசை ஆசிரியர் / தையல் ஆசிரியர் ஆகிய இரு வகையிலான சிறப்பாசிரியர் காலிப்பணியிடங்களான 68 இசையாசிரியர் பணியிடங்களையும், 100 தையலாசிரியர் பணியிடங்களையும் 1998-99 கல்வியாண்டில் நிரப்ப அரசு அனுமதி வழங்குகிறது. 250 மற்றும் அதற்கு மேல் மாணவியர் எண்ணிக்கை உள்ள பள்ளிகளில் மட்டும் இந்த பணியிடங்களை (168) நிரப்ப அரசு அனுமதி வழங்குகிறது. மற்ற கைத்தொழில் ஆசிரியர் பணியிடங்களுக்கு இந்த அனுமதி பொருந்தாது.□

6.The above Government Order puts a pre condition for appointment of Craft Teacher in Sewing and it states that for appointing a Craft Teacher in Sewing in an aided school, the school must contain a minimum of 250 girl students. The stand that was taken by the respondents during the earlier hearing was that the petitioner school does not have the required girl students strength and therefore, the petitioner is not entitled for insisting for the appointment of Craft Teacher.

7.At this juncture, it will be relevant to take note of G.O.(Ms)No. 39, dated 21.03.2003 and the relevant portions in the Government Order are extracted hereunder:

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“1. அரசுப்பள்ளிகளிலுள்ள தையல் மற்றும் இசை ஆசிரியர் பணியிடங்களை நிரப்பிக் கொள்வதற்கான தடையை நீக்கி வெளியிடப்பட்ட அரசாணை (நிலை) எண்: 132, பள்ளிக்கல்வி நாள் 27.04.1998 12.07.2002 முதல் அரசு உதவி பெறும் பள்ளிகளுக்கும் நீட்டிக்க அனுமதிக்கப்படுகிறது.

2. அரசாணை (நிலை) எண்.132, பள்ளிக்கல்வி நாள் 27.04.98ஐ அரசு உதவி பெறும் பள்ளிகளுக்கு 12.07.2002 முதல் நீட்டிக்க மேலே இனம் (1)ல் ஆணையிடப்பட்டுள்ளதால் 12.07.2002 முதல் தையல் மற்றும் இணை ஆசிரியர் நியமனங்கள் மட்டுமே செய்யப்படவேண்டும். இதர சிறப்பாசிரியர் / கைத்தொழில் ஆசிரியர் நியமனங்கள் செய்யப்படக்கூடாது என தெரிவிக்கப்படுகிறது.

3. 11.07.02 முடிய செய்யப்பட்டுள்ள அனைத்து வகை கைத்தொழிலாசிரியர் நியமனங்களையும் (விவசாயம், மரவேலை, நெசவு, தையல், இசை போன்றவை) அமை அனுமதிக்கப்பட்ட நிரந்தரப் பணியிடங்களில் விதிமுறைகளின்படி செய்யப்பட்டிருப்பின் அவற்றிற்குரிய அலுவல் ஒப்புதல் வழங்க அனுமதிக்கப்படுகிறது.

4. 11.07.2002 முடிய காலியாக இருந்த அனைத்து வகை (விவசாயம், மரவேலை, நெசவு, தையல், இசை போன்றவை) மைத்தொழிலாசிரியர் பணியிடங்களையும் உரிய விதிமுறைகளைப் பின்பற்றி நிரப்பிக் கொள்ள அனுமதி வழங்கப்படுகிறது.

5. 12.07.2002 முதல் தையல் மற்றும் இசையாசிரியர் பணியிடங்களை மட்டுமே நிரப்பிக் கொள்ள அனுமதி வழங்கப்படுகிறது. 12.07.2002 முதல் வேறெந்த வகை சிறப்பாசிரியர் / கைத்தொழிலாசிரியர் காலிப் பணியிடங்களையும் நிரப்பக்கூடாது எனத் தெரிவிக்கப்படுகிறது.□

8. By virtue of G.O.Ms.No.212, dated 29.11.2001, a total ban was issued by the Government of Tamil Nadu for fresh appointment of Teachers in aided school. Thereafter, an exception was carved out with respect to some of the posts, thereby, G.O.(Ms)No.104, dated 12.07.2002 was issued, wherein, the filling up of the post of Sewing Teacher and Music Teacher was permitted for the aided school. While undertaking



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this exercise, two scenarios were envisaged under the Government Order.

The first scenario is where the aided school already had a sanctioned post of Sewing Teacher/Music Teacher. The second scenario is where the aided school wants to fill up a new post of Sewing Teacher/Music Teacher on and from 12.07.2002.

9.Insofar as the first scenario is concerned, Clause-3 of G.O. (Ms)No.39 governs the same and it makes it very clear that whichever aided school already had a sanctioned post till 11.07.2002 for Sewing Teacher/Music Teacher, etc., approval must be given to fill up that post. Insofar as second scenario where an aided school wants to fill up this post afresh on and from 12.07.2002, the said school must fulfill the requirements under G.O.Ms.No.132, dated 27.04.1998 and consequentially, such school must have a minimum girl students strength of 250. This position becomes clear on a careful reading of both the Government Orders.

10.Having understood the scope of these two Government Orders, it must now be applied to the facts of the present case. In the instant



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case, there is no dispute with regard to the fact that there was already a sanctioned post available to the petitioner school towards Craft Teacher in Sewing. This is clear from the proceedings of the fourth respondent dated 17.05.1990 and 13.05.2020 respectively. In view of the same, the first scenario that was discussed supra will apply to this case. The petitioner school need not fulfill the requirements as provided in G.O.Ms.No.132, dated 27.04.1998, since the petitioner school already had a sanctioned post for Craft Teacher in Sewing. Therefore, the petitioner will be entitled to fill up the said post.

11. In the light of the above discussion, the proceedings of the third respondent in Na.Ka.No.1505/A2/2020 dated 14.08.2020 requires the interference of this Court insofar as removing the post of Vocational Instructor (Craft Teacher in Sewing) from the staff fixation order for the academic year 2019-2020. To that extent, the impugned proceedings is interfered by this Court. There shall be a direction to the third respondent to accord sanction to the petitioner school to fill up the post of Craft Teacher in Sewing for the forthcoming academic year commencing from 01.06.2024.



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12.In the result, this Writ Petition is allowed in the above terms.

No costs.

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

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To

- 1.The Director of School Education, Chennai.
- 2.The Joint Director of School Education (Secondary),
Chennai-6.
- 3.The Chief Educational Officer,
Chief Educational Office,
Tenkasi Educational District, Tenkasi District.
- 4.The District Educational Officer,
District Educational Office,
Sankarankovil, Tenkasi District.



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