

In the High Court of Judicature at Madras

Dated: 04.06.2015

Coram:

The Hon'ble Mr. Justice SATISH K. AGNIHOTRI
and
The Hon'ble Mr. Justice M. VENUGOPAL

W.A.No.548 of 2015
and M.P.No.1 of 2015

1. The Secretary to the Government,
School Education Department,
Fort St. George,
Chennai-600 009.
 2. The Director of Elementary Education,
College Road,
Chennai-600 006.
 3. The District Elementary Education Officer,
Thiruvvarur,
Thiruvvarur District.
 4. The Assistant Elementary Education Officer,
Mannargudi,
Mannargudi Taluk,
Thiruvvarur District.
- ... Appellants / Respondents

Vs.

S. Raghavacharry .. Respondent/ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 12.02.2014 and made in W.P.No.17727 of 2013 by the learned Judge of this Court.

Writ of certiorarified mandamus to call for the records relating to the order passed by the 2nd respondent in Na. Ka. No.12062/ H4/ 2012 dated 3.8.2012 and the consequential order of the 3rd respondent in Na. Ka. No.3190/2012/A3 dated 8.1.2013 and quash the same and consequently direct the respondents to grant permission to the petitioner to fill up 2 Secondary Grade Teacher post and 1-B.T.Head Master Post in Jayalakshmi Vilas Middle School Mannargudi Mannargudi Taluk Thiruvvarur District.

For Appellant : Mr.K.Karthigeyan
Government Advocate (Education)

For Respondent : Mr.K.Venkataramani, SC
for Mr.V.Kasinathabharathi

J U D G E M E N T

[Judgment of the Court was made by
M.VENUGOPAL, J.]

The Appellants/Respondents have focused the instant intra-Court Writ Appeal before this Court as against the order dated 12.02.2014 passed by the Learned Single Judge in W.P.No.17727 of 2013.

2.The Learned Single Judge while passing the impugned order on 12.02.2014 in W.P.No.17727 of 2013 filed by the Respondent/Petitioner in para 4 had observed the following:

"The petitioner school was opened on 01.07.1979 with 900 students and 21 teachers. The Secretary to Government of Tamil Nadu also passed an approval in his proceedings in G.O.Ms.No.9, School Education (B2) Department, dated 20.01.20013 and one another order passed by the Government Special Secretary shows that the respondents have agreed for appointment of two Secondary Grade Teachers and two other teachers from deployment and the District Elementary Educational Officer also visited and sanctioned 6 posts to the school in her proceedings in Na.Ka.4168/A2/2010 dated 28.12.2010. At that relevant point of time, two B.T.Teachers and one secondary teacher were working. After making a request to the respondents on 08.02.2012, the fourth respondent in his proceedings in Na.Ka.No.325/12/A2 recommended to the higher authorities for appointment of two secondary grade teachers and one B.T.Head Master. The second respondent also recommended for appointment of two secondary grade teachers and one B.T.Head Master. The fourth respondent made inspections on 11.07.2012, 16.08.2012 and 29.08.2012 and he has made recommendations on 28.03.2012 and 05.11.2012 for appointment of two secondary grade teachers and one B.T.Head Master. Moreover, the inspection report submitted by the fourth respondent viz., the Assistant Elementary Educational Officer, Mannargudi dated 24.1.2014, after undertaking inspection of the petitioner school, clearly recommends for

appointment of two Secondary Grade Teachers based on the students strength. In the said inspection note, the fourth respondent has also made it clear that the students strength for the Classes I to V being more in number, it is not advisable to run the classes without the Secondary Grade Teachers, which will affect the students future career. On this basis, he has also made a detailed recommendation to make suitable arrangements for appointment of two Secondary Grade Teachers. Similarly, after finding more students strength for the classes VI to VIII, the fourth respondent again recommended for filling up of vacancy in the post of Graduate Teachers. The inspection report dated 24.1.2014 clearly shows that the total strength of the students from Classes I to VIII was 202 as on 24.1.2014 and the attendance, according to him, also has shown that 181 students marked their presence. In this context, it is useful to refer to a judgment of the Hon'ble Full Bench of this Court in the case of Director of Elementary Education, Chennai and othes v. S.Vigila, 2005 (5) CTC 385, in which the Hon'ble Full Bench, while interpreting G.O.Ms.No.525, School Education Department dated 29.12.77, has held that the student-teacher ratio should be primarily considered by taking the age of the individual child/section as uniform. Again the Hon'ble Full Bench has held that the minimum strength of teachers should not fall below the number of standards/sections in the school and for example, if there are 5 standards, minimum of 5 teachers should be available, out of which one should be the Headmaster. Again it held that if the maximum strength of students in one class should be 40 and additional section is required to be accorded only when the students strength in that standard becomes 60 or more. When the students strength becomes 100, three teachers can be appointed and finally the Hon'ble Full Bench has held that there should be one teacher for every class having 40 students. Therefore, this Court is unable to agree with the impugned order passed by the second respondent dated 03.08.2012 and the third respondent dated 08.01.2013, hence, the same are set aside. The respondents are directed to complete the appointment process as recommended by the fourth respondent ,within a period of two weeks from the date of receipt of a copy of this order."

and resultantly, allowed the Writ Petition without costs.

3.Challenging the correctness of the order passed by the Learned Single Judge in the Writ Petition, the Learned Government Advocate appearing for the Appellants submits that Learned Single Judge had failed to take into account that the authorities have every right to reject the claim of the Respondent/Petitioner as per Section 14(a) of Tamil Nadu Recognized Private Schools Regulations Act, 1973.

4.According to the Learned Government Advocate for the Appellants, the Learned Single Judge had failed to appreciate that the appellants gave permission to the Respondent/Petitioner to reopen the school which is successfully running for more than 100 years. Further, due to the administrative reason and other financial constrains, the School was closed and taking into consideration the difficulty of the Respondent/Petitioner, the appellants gracefully permit the Respondent/Petitioner to reopen the school without aid and post from the Government.

5.The stand of the Appellants is that the Learned Single Judge had failed to consider that it is the Policy decision of the Government that from the year 1991 onwards, the new school was granted with aid and also no new additional post was granted.

6.Yet another plea of the Appellants is to the effect that the Learned Single Judge had failed to consider the fact that as per inspection report, the Respondent/School is having a students strength of 131 i.e., upto Standard I to V only 90 students are studying and upto VI to VIII Std, only 41 Students are studying and hence, as per G.O.Ms.525, School Education dated 29.12.1977, students-teacher ratio should be primarily considered by taking the age of the individual child/section as uniform. Moreover, the minimum strength of students in one class should be 40 and there should be one teacher in every class having 40 students. However, in the case of the Respondent/Petitioner School, there are minimum 16 students and maximum 34 students in every section and therefore, applicability of one teacher for each class is not possible.

7.The Learned Government Advocate for the Appellants proceeds to project his arguments that the authorities are ready to deploy a teacher from other school to the Respondent School. The Respondent/Petitioner is demanding new post which cannot be considered because of the Policy decision of the Government i.e., from the year 1991, no new post or grant will be sanctioned after the insertion of Section 14(a) in the Tamil Nadu Recognised Private Schools Regulations Act, 1973.

8.The Learned Government Advocate submits that the appellants are ready to consider the request of the Respondent/Petitioner in

providing a working teacher from the surplus school to the needy school and the said practice is followed by the appellants in a routine manner. However, the Respondent is seeking for a new post which is against policy of the Government.

9. On behalf of the Appellants, the Learned Government Advocate urges before this Court that the impugned order of rejection was passed based on inspection made as on 11.07.2012, 16.08.2012 and 29.08.2012 respectively. However, the Learned Single Judge took into consideration, the inspection report dated 24.01.2014 which is subsequent to the impugned order.

10. Finally, it is the contention of the Learned Government Advocate for the Appellants that if the order of the Learned Single Judge is implemented, it will create a great administrative chaos and there is a possibility of similarly placed managements approaching this Court with similar relief and the same cannot be ruled out.

11. It is not in dispute that the Respondent/Petitioner school was opened on 01.07.1979 with a strength of 900 students and 21 teachers. Also, it comes to be known that the Fourth Appellant/Fourth Respondent conducted inspection on 11.07.2012, 16.08.2012 and 29.08.2012 respectively and made recommendations on 28.03.2012 and 05.11.2012 for appointment of two Secondary Grade Teachers and one B.T. Headmaster. That apart, the inspection report of the Fourth Respondent dated 24.01.2014, after making an inspection of the Respondent/Petitioner's school in a crystalline manner recommends for appointment of two Secondary Grade Teachers based on the students strength. Also, in the inspection report, it was made mentioned that students strength in respect of class I to V being more in number, it was not advisable to run the class without Secondary Grade Teachers which would affect the students' future career. On this basis, he had made a recommendations to make suitable arrangements for appointment of two Secondary Grade Teachers. Moreover, in view of more students strength in respect of classes VI to VIII, the Fourth Appellant recommended for filling up of vacancies in the post of Graduate Teachers. In short, the total strength of students from class I to VIII was 202 as on 24.01.2014 and the attendance, according to him also showed that 181 students had marked their presence.

12. It cannot be forgotten that student ratio ought to be primarily considered by taking each of the individual child/section as uniform as per Full Bench decision of this Court, reported in the case of The Director of Elementary Education, Chennai and Others Vs. S.Vigila [2007 (1) LW 402]

13.On a careful consideration of the contentions advanced on behalf of the Appellants and also this Court on going through the order dated 12.02.2014 passed by the Learned Single Judge in W.P.No.17727 of 2013, is of the considered view that the view taken by the Learned Single Judge in allowing the Writ Petition by setting aside the impugned order passed by the Second Appellant dated 03.08.2012 and Third Appellant dated 08.01.2013 does not suffer from any vice or irregularity or infirmity in the eye of law. Consequently, the Writ Appeal sans merits.

14.In the result, the Writ Appeal is dismissed leaving the parties to bear their own costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

DP

To

- 1.The Secretary to the Government,
School Education Department,
Fort St. George, Chennai-600 009.
 - 2.The Director of Elementary Education,
College Road,
Chennai-600 006.
 - 3.The District Elementary Education Officer,
Thiruvapur, Thiruvapur District.
 - 4.The Assistant Elementary Education Officer,
Mannargudi, Mannargudi Taluk,
Thiruvapur District.
- 1 cc to Mr.V.Kasinathabharathi, Advocate, Sr. 26632
1 cc to Government Pleader, Sr. 26832

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M.P.No.1 of 2015

RV (CO)
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