

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.6049 of 2017
and W.M.P.No.6486 of 2017

The Correspondent

Elango Aided Primary School,
Karpaganatharkulam South - 614 703
Muthupettai, Thiruvarur District

...Petitioner

Vs

1. The Director of Elementary Education
College Road, Chennai 600 006.

2. The District Elementary Educational Officer,
Thiruvarur District.

3. The Assistant Elementary Educational Officer,
Muthupettai, Thiruvarur District.

4. Ku.Akila
Secondary Grade Teacher,
Elango Aided Primary School,
Karpaganatharkulam South,
Muthupettai, Thiruvarur District
(R4 is suo-motu impleaded as per order
dated 13.03.2017 in
W.M.P.No.6486/2017 in W.P.No.6049/2017)

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus calling for the entire records connected with the impugned order passed by the second respondent dated 24.01.2017 and consequent proceedings in Na.Ka.No.3183/A3/2016 dated 27.02.2017 and quash the same and directing the respondents not to reduce the teachers strength of the petitioner's primary school below 5 (one for each class) in the light of the judgment of the Full Bench of this Court in Director of Elementary Education Vs. S.Vigila reported in 2006 (5) CTC 385.

For Petitioner : Mr.L.Chandrakumar for
Mr.N.Senthil Kumar

For Respondents-1 to 3 : Mr.Rajagopalan, Spl.G.P.(Edn)
Asst. by Mr.V.Anandhamurthy
Additional Government Pleader

For Respondent-4 : Mr.M.Aniruthan

O R D E R

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the second respondent dated 24.01.2017 and consequent proceedings in Na.Ka.No.3183/A3/2016 dated 27.02.2017 and quash the same and for direction not to reduce the teachers strength of the petitioner's Primary School below 5 (one for each class) in the light of the judgment of the Full Bench of this Court in Director of Elementary Education Vs. S.Vigila reported in 2006 (5) CTC 385.

2. The petitioner-School was started in the year 1946 and has been recognized by the educational authorities on 15.10.1951. The School is also receiving grant from the Government and is governed by the Tamil Nadu Private Schools (Regulation) Act and orders of the Government issued from time to time. Now, the challenge is to the proceedings dated 27.02.2017 issued by the second respondent. It is stated that on 24.01.2017, the School was asked to surrender the surplus post of one secondary grade teacher out of the five teachers working in the School. As per the inspection report of the third respondent, the average student strength for classes I to V was mentioned as 92 as on 24.01.2017 and the total number of students is 93 in the month of January 2017. Therefore, the second respondent, vide his impugned proceedings, directed the petitioner-school to deploy one Tmt.Akila to Thiru. Venkateswara Aided School, Uppur, Thiruvavarur District, who was suo-motu impleaded later in the writ proceedings.

3. According to the petitioner, the total strength of the School is 93 for standards I to V as on January 2017 and there are five classes I to V and the School is eligible for 5 teaching posts as per the Elementary School Educational Rules. Now, by deploying one teacher to another School and reducing the strength of the number of teachers in the petitioner-School, is under challenge.

4. Learned counsel for the petitioner contended that the deployment of the fourth respondent is arbitrary. It is stated that the reduction of teaching staff strength for the academic year 2016-2017 as 4 for the total strength of 92 students, is contrary to the dictum laid down in the said decision of the Full Bench of this Court. It is the stand of the petitioner that when there is total strength of 92 students from Classes I to V, atleast 5 teaching posts should be sanctioned. The learned counsel also contended that as the factor of the student is fluctuating each year, every year, inspection has to be made and on that strength, the teacher post has to be sanctioned. Without following such procedure, the impugned proceedings have been passed by the respondents. Therefore, the said proceedings are arbitrary and illegal.

5. Per contra, the learned Special Government Pleader appearing for the respondents 1 to 3 has filed counter affidavit, which specifically states that the contention of the petitioner that the school has 93 students is factually incorrect. An inspection has been conducted by the respondents on 13.03.2017 after filing of the writ petition, on which date, the students present were only 64. It is also further stated that the students strength in the School is 79 and in the attendance register, the names of 18 students have been fictitiously mentioned for the purpose of showing more students strength in order to get additional teachers. The counter affidavit also alleges of certain other important malpractices done by the authorities to retain the number of teachers. It is further stated that the first respondent had issued detailed guidelines to all the District Elementary Educational Officers with regard to the fixation of teacher strength and transfer of teacher in the light of orders issued in G.O.Ms.No.231, School Education Department, dated 11.08.2010 and also the RTE Act and the Rules framed thereunder. Therefore, the transfer of the fourth respondent to another school on deployment is only as per the orders of the Government and the RTE Act. Therefore, the impugned order passed by the second respondent is correct and the petitioner cannot allege arbitrariness in the same by impugning the order in the Writ petition.

6. The fourth respondent has also filed counter affidavit pursuant to her impleadment in the Writ petition. The fourth respondent had stated that the petitioner-School has Classes I to V and there are five teachers including the fourth respondent. Further, the second respondent, in order to comply with the provisions of the said G.O.Ms.No.231, dated 11.08.2010 and the provisions relating to pupil-teacher ratio as per Act 35 of 2009, initiated steps to rationalize the deployment of existing teachers in the Government controlled and aided

schools. The petitioner-School voluntarily surrendered the surplus teacher, namely the fourth respondent to the 'General Pool' maintained by the first respondent and the surrender was communicated by the Correspondent to the second respondent. The petitioner-school relying on G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, try to retain the fourth respondent. However, taking the pupil-teacher ratio in the petitioner-School, the second respondent had relieved the fourth respondent and she was deployed in Shri Venkateswara Aided Primary School, Uppur. The fourth respondent has also mentioned about the humility undergone by her in the hands of the Correspondent of the petitioner-School and had expressed her willingness to continue in the School where she is now presently deployed.

7. The learned counsel for the petitioner has placed reliance on a decision of the Division Bench of the Kerala High Court in THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001 AND ANOTHER - VS - THE CORPORATE MANAGER, CORPORATE EDUCATIONAL AGENCY, DIOCESE OF IDUKKI, (W.A.No.372 of 2016, dated 30.08.2016), wherein, it has been held in paragraphs 6 and 7 as follows:

"6. We have considered the submissions made. The issue as to whether the Pupil-Teacher Ratio (PTR) is to be applied with the school as a unit as contended by the appellants or with the class as the unit as contended by the respondents is to be decided in the light of the provisions contained in the RTE Act itself. Section 19 of the RTE Act provides the norms and standards for W.A.Nos.372/16 & Conn. Cases the school. Sub Section(1) provides that no school shall be established, or recognised, under Section 18 of the Act, unless the school fulfills the norms and standards specified in the Schedule to the Act. Section 25 of the Act provides for Pupil-Teachers Ratio (PTR). As per Section 25(1), within three years from the date of commencement of the Act, the appropriate Government and the local authority shall ensure that the Pupil-Teacher Ratio (PTR), as specified in the Schedule, is maintained in each school. ...

7. A perusal of the Schedule shows, as per clause 1(a) Norms and Standards have been prescribed "for first class to fifth W.A.Nos.372/16 & Conn. Cases class". It is to be noticed that the Legislature has specifically prescribed the Norms and Standards "for first class to fifth class" and not "from first class to fifth class". Secondly, this itself indicates that Legislature has adopted class as the unit for application and satisfaction of the Norms and Standards. Turning to the norms and standards prescribed for first class to fifth class, it can also be seen that in a class where the strength of admitted children is upto 60, the number of teachers required is to be 2. Similarly, when the strength is between 61 to 90, it is 3. Obviously, the norms prescribed is for admitted children in a class and not in a school, as contended by the learned Advocate General for the appellants. This is all the more clear from the further prescription Clause (b) where norms and standards have been prescribed "for sixth class to eighth class." It is also evident from W.A.Nos.372/16 & Conn. Cases the further prescription in clause 2, where it is also provided that at least 1 class room shall be provided for every teacher."

8. It is contended that the norms and standards should not be "from first class to fifth class", it should be "for first class to fifth class" and the student-pupil ratio has to be considered in such circumstances.

9. On 16.06.2017, the second respondent has conducted an inspection in the petitioner-school and filed report. As per the report, there are only 70 students in the school, which is not disputed by the petitioner. As per the guidelines of Right of Children to Free and Compulsory Education Act, 2009, the norms and standards of the School prescribe only three teachers for I class to V Class having students between 61 to 90, whereas the petitioner-School is now having 4 teachers, even after the deployment of the fourth respondent. Therefore, there cannot be any grievance for the petitioner over the impugned orders, as the impugned orders do not suffer from any illegality or infirmity.

10. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Director of Elementary Education,
College Road, Chennai-600 006.
2. The District Elementary Educational Officer,
Tiruvarur District.
3. The Assistant Elementary Educational officer,
Muthupettai, Tiruvarur District.

+1cc to Mr.N.Senthil Kumar, Advocate, S.R.No.43531
+1cc to Mr.M.Aniruthan, Advocate, S.R.No.43821
+1cc to the Government Pleader, S.R.No.43790

W.P. No.1816 of 2015

MV(CO)
CS/28/06/17

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