

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

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The Honourable **Mr.Justice HULUVADI G.RAMESH,**

and

The Honourable **Dr.Justice S.VIMALA**

W.A.NO.334 OF 2017

1. The Government of Tamil Nadu,
rep. by its Secretary,
Education Department,
Fort St.George,
Chennai-600 009.

2. The Director of School Education,
College Road,
Chennai-600 006.

3. The Chief Educational Officer,
Virudhunagar,
Virudhunagar District-626 001.

.. Appellants

versus

Nadar Higher Secondary School,
Rajapalayam,
Virudhunagar District,
rep. by its secretary

.. Respondent

For Appellant : Mr.R.Vijayakumar, AGP
For Respondent : Mr.RSaseetharan

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order of the learned single Judge dated 18.04.2016 in W.P.No.22642 of 2014.

JUDGMENT

(Judgment of the Court was made by
HULUVADI G. RAMESH, J.)

This Writ Appeal has been directed against the order of the learned single Judge dated 18.04.2016 in W.P.No.22642 of 2014.

The respondent school is a private aided higher secondary school. The respondent school has sent a proposal on 16.7.2009 and on 14.9.2012 to the Director of School Education, seeking to upgrade the post of Physical Education Teacher to that of Physical Director based on the G.O.Ms.No.525 dated 29.12.1997, which provides for a school with the strength of 400 pupil, one post of Physical Director will be given by upgradation of existing post of Physical Education Teacher. According to the respondent school, it has total students strength of higher standard i.e. from VI to XII is 644.

It appears that the by proceedings dated 20.11.2013, the Director of School Education rejected the claim of the respondent

school on the ground that the students strength of the school as regards XI and XII has not exceeded 400. Aggrieved by the same, the respondent school filed the above said writ petition.

After hearing the learned counsel for the parties and on considering the earlier order of this Court in W.P.No.35922 of 2005 dated 21.12.2009, the learned Judge allowed the writ petition and directed the appellants to pass orders for upgradation of one post of Physical Education Teacher. Challenging the same, the present Writ Appeal has been preferred.

It is not in dispute that as per G.O.Ms.No.525 dated 29.12.1997, schools which is having a strength of over 400, one post of Physical Director will be given by upgradation of existing post of Physical Education Teacher. It is vehement contention of the learned Addl.Government Pleader that the total students strength of Standards XI and XII alone has to be taken into consideration, whereas, the respondent school claims the total strength of Standards from VI to XII as 644 and entitles upgradation, which cannot be sustained. He pointed out that the for the year 2016, the total strength of the respondent school

was only 287, which was not exceeded the required strength of 400 as prescribed in the above said G.O., the claim of the respondent school was rightly rejected by the authorities, however, the learned Judge, without considering the factual aspect of the matter, allowed the writ petition and hence, it is required interference of this Court.

It is pertinent to note that when a similar issue came up for consideration before this Court in W.P.No.35922 of 2005, the learned single Judge, dealt with the issue and enunciated as to how to calculate the strength of students of a higher secondary school. It has been held as under in para 6:

"6. Reading paragraph 4 along with the earlier explanation, the idea appears to be that the strength of the school as a higher secondary school has to be taken not with reference to the standards of XI and XII alone but as a higher secondary school offering classes upto Standard XII. A reading of the Government Order shows that while in the case of a high school having upto standard X, the student teacher ratio is fixed, in respect of higher secondary school, taking note of the subjects offered as a course of study, the teacher

ratio is fixed. Beyond that, as far as physical education teacher is concerned, in the absence of the same given as a special subject of study, the post has to be construed keeping in mind the total strength of standards XI and XII alone. If the argument of the respondents is to be accepted that Clause 4 refers to student strength of 400 studying in classes XI and XII alone, then that would merely introduce an element of artificial and unrealistic understanding of the Government Order that the Government restricted the reference of higher secondary school to standards XI and XII alone. Given the reason for introduction of the Government Order that on upgradation the school has to have a specific number of teachers catering to the needs of the student population, physical education being an important aspect in the school curriculum, it is but necessary that taking the clue from Clause III, in the case of Higher Secondary education, the strength has to be read as 400 in total of the higher secondary school offering study upto XII Standard and not Classes XI and XII alone. ..."

In view of the categorical view of the learned Judge in the above referred to order which was followed by the learned Judge

in the present order and granted the relief, which was challenged before us, wherein, we do not find any infirmity to interfere with the same. In fact, the above referred to order was also followed by a Division Bench of this Court while disposing the similar case in W.A.No.1290 of 2014.

The learned Addl.Government Pleader appearing for the appellants is not in a position to ascertain as to whether the above referred to orders were appealed and any decision rendered therein.

For the foregoing reasons, we do not find any merit in the writ appeal in order to entertain the same. Accordingly, the Writ Appeal fails and it is dismissed. No costs.

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(H.G.R.,J.) (S.V.,J.)
21.04.2017

HULUVADI G.RAMESH, J.
and
DR.S.VIMALA, J.
suk

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