

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.8029 of 2010

and

M.P.No.2 of 2010

K.Senthilkumaran,
Secretary,

Thiru.K.Kuppusamy Memorial,
High School, Chinnakangiyanur,
Thiruvannamalai.

... Petitioner

Vs

1. The State of Tamil Nadu,
rep.by the Secretary to Government,
Educational Department, Secretariat,
Chennai - 9.

2. The Director of School Education,
College Road, Chennai - 6.

3. The Cheif Educational Officer,
Tiruvannamalai District.

4. The District Educational Officer,
Tiruvannamalai District.

... Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issue of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the first respondent in G.O.Ms.No.39 School Education (D1) dpartment, dated 21.03.2003 and consequential order of the second respondent in Mu.Mu.No.3818/D1/2010 dated 31.03.2010 and quash the same and direct the second respondent to grant permission for conversion of post of Craft Teacher Weaving to Music in the petitioner's school.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.V.Anandhamoorthy
Additional Government Pleader

O R D E R

The petitioner has challenged the rejection order passed by the respondent seeking permission to convert the post of Vocational Weaving Instructor to the post of Weaving and Music instructor.

2. The petitioner's school has been established in the year 1941 and thereafter it has been conducting the classes from the year 2005 onwards. The strength of students has come down from 648 students in the year 2005 to 586 students in the year 2009. It is an aided school. A vacancy arose to the post of Craft Teacher (Weaving), due to the death of on E.Dhanasekar, Craft Teacher on 18.08.2003. Though several requests were made by the petitioner to fill up the said post of Craft Teacher, the same was not considered, due to G.O.Ms.No.39 School Education (D1) Department dated 21.03.2003 through which a ban on appointment of Craft Teachers in Government Schools and Aided schools was imposed for the vacancies arose after 12.07.2002 except for the post of Music and Tailoring. Therefore, the petitioner applied for conversion of the post of Craft Teacher (Weaving) to Sewing and Music Teacher and that has been rejected by the second respondent by the impugned order dated 31.03.2010, which is being challenged before this Court.

3. Heard Mr.S.N.Ravichandran, the learned counsel appearing for the petitioner and Mr.V.Anandhamoorthy, Additional Government Pleader appearing for the respondents.

4. In similar circumstances, a Division Bench of this Court in Writ Appeal No.421 of 2017, in the judgment dated 19.04.2017 rendered in The State of Tamil Nadu and three others Vs. P.Bella Fernando and another set aside the order of refusal of approval to appoint a Sewing Instructor without getting appropriate approval as the post of Tutor in Agriculture was sought to be converted into Sewing and Music Instructor and the relevant paragraphs are extracted as follows:

"5.The appellants have challenged the order passed by the Writ Court on the ground that though the second respondent institution is a minority institution, they do not require prior permission for filling up retirement vacancy, in the instant case, the post which was sanctioned is a pre-vocational instructor [Agriculture] and the vacancy could have been filled up with the Pre-vocational Instructor [agriculture], whereas the second respondent has filled the vacancy with the Pre-vocational Instructor [Sewing], that too, without obtaining prior approval of the Director of

School Education, who is the second appellant herein.

6. An identical issue was considered in the case of Management of RC School, Tirunelveli Vs. Director of Elementary Education and another in W.P.[MD]No.11501 of 2008, dated 20.09.2010. In the said case also, a similar appointment was made and the management contended that there were no takers for the vocational subject of Agriculture and therefore, they have appointed the pre-vocational Instructor [Sewing]. The Writ Court, considering the factual aspect as well as the Government order issued in G.O.Ms.No.39, School Education Department, dated 21.03.2003 and by interpreting the same, allowed the Writ Petition and directed the approval of the appointment. It is not in dispute that the said order passed in favour of one Tmt.J.Vasanthi has been approved and she has been paid salary.

7. In the case on hand, the first respondent management took a specific stand in the Writ Petition that after the retirement of Tmt.A.Irudaya Stella, on 31.05.2014, the students were not interested in agriculture subject and the school being situated in the seashore area and the water had become saline and unfit for raising saplings and crops and there was a constant request from the Parent Teacher Association in this regard, the management appointed the first respondent herein as Pre-Vocational Instructor [Sewing]. It may be true that prior approval has not been obtained by the management before the appointment of Pre-Vocational Instructor [Sewing]. But, what is important is that the post, which has been sanctioned is pre-vocational instructor and the subject may be agriculture, carpentry, Weaving, Sewing and Music. "

5. In this case also, the post is an approved post and the Tutor i.e., E.Dhanasekar, who was working as Vocational Instructor in Weaving passed away on 18.08.2003. The petitioner institution intends to convert the said post to one of Vocational Instructor in Music and Weaving which is permitted as per the G.O.Ms.No.39 dated 21.02.2003 wherein the conversion

of Sewing and Music alone are permitted. As already stated, the petitioner is not seeking for approval of any new post. It is already a sanctioned post and therefore, the petitioner is entitled to appointment of an Instructor in Sewing and Music converting the post of Craft Teacher (Weaving) to Instructor in Sewing and Music, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above observations, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

klt/nv

To

1. The Secretary to Government,
State of Tamil Nadu,
Educational Department, Secretariat,
Chennai - 9.
2. The Director of School Education,
College Road, Chennai - 6.
3. The Chief Educational Officer,
Tiruvannamalai District.
4. The District Educational Officer,
Tiruvannamalai District.

+1cc to the Government Pleader, S.R.No.55035

W.P.No.8029 of 2010
and
M.P.No.2 of 2010

SK(CO)
CA(30/08/2017)

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