

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

Writ Petition No.970 of 2012

and M.P.Nos.2 to 4 of 2012

T.DAVID MANOHARAN

[PETITIONER]

Vs

1 JOINT DIRECTOR OF SCHOOL EDUCATION
(HIGHER SECONDARY) CHENNAI-600 006.

2 CHIEF EDUCATIONAL OFFICER
CHENNAI-600 015.

3 SECRETARY
GENERAL CARIAPPA HIGHER SECONDARY SCHOOL
NO. 1 KAMARAJ STREET GANDHI NAGAR SALIGRAMAM
CHENNAI-600 093.

[RESPONDENTS]

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified mandamus calling for the records relating to the order passed by the 2nd respondent in Na.Ka.No.10049/Aaa 1/2011 dated 30.11.2011 and the consequential order passed by the 3rd respondent in No Nil dated 22.12.2011 and quash the same and direct the respondents to confer all the consequential benefits on the petitioner.

For Petitioner : Mr.P.Ganesan for
M/s C.S.Associates

For Respondents : Mr.R.Prem Narayanan (R3)
Mr.S.Gunasekaran, AGP (R1&2)

O R D E R

Mr.P.Ganesan, learned counsel is present on behalf of the writ petitioner. Mr.S.Gunasekaran, learned Additional Government Pleader is present on behalf of respondents 1 & 2. Mr.R.Prem Narayan, learned counsel is present on behalf of the 3rd respondent.

2. By consent of all three counsel, main writ petition itself is taken up for disposal.

3.1 The writ petitioner is working as Post Graduate Assistant (Commerce) [hereinafter referred to as 'PG Assistant' for brevity] in the 3rd respondent School namely General Cariappa Higher Secondary School, No.1, Kamarajar Street, Gandhi Nagar, Saligramam, Chennai 93, which, according to the learned counsel for the writ petitioner and the learned Additional Government Pleader is a Private Aided School.

3.2 Prior to the filing of writ petition, an inspection was conducted by respondents 1 and 2 in the 3rd respondent School and it was found that the student teacher ratio in Commerce stream is such that it warrants transfer of writ petitioner from the 3rd respondent School to another school. Accordingly orders were passed by the 2nd and 3rd respondents. It is stated by the writ petitioner that when the writ petitioner approached the school to which he was transferred, he was informed that there is no such post and that school would not be able to accommodate him. Writ petitioner being left high and dry, approached this Court by way of the instant writ petition.

4. This Court admitted the writ petition on 18.01.2012 and vide M.P.No.2 of 2012, granted an interim order (dated 18.01.2012), by virtue of which, the writ petitioner continues to function as PG Assistant (Commerce) in the 3rd respondent School.

5. It is now submitted today at the Bar that the writ petitioner continues to work as PG Assistant (Commerce) in the 3rd respondent School, even as of today and this factual position is not disputed by the respondents.

6. Learned counsel for the writ petitioner submits that post 2012 (post writ petition), the 3rd respondent School has enrolled/admitted many students in the Commerce stream, owing to which, the strength of students in the Commerce stream has gone up and the student teacher ratio now is healthy enough/good enough for the writ petitioner to continue in the 3rd respondent School itself. It is also submitted by the writ petitioner's counsel that the writ petitioner is the only teacher in Commerce stream in the 3rd respondent School.

7. Learned Additional Government Pleader as well as the learned counsel for the 3rd respondent had moved petitions vide M.P.Nos.4 and 3 of 2012 respectively for vacating the interim

order. But, no orders have been passed in the same in the last 5 years.

8. It is fairly submitted by the writ petitioner's counsel as well as the learned Additional Government Pleader that an inspection has to be done by respondents 1 and 2 to ascertain the student teacher ratio. It is also fairly stated by the learned Additional Government Pleader that such inspection by respondents 1 and 2 shall be done after completion of the present academic year, which would come to an end on 01.06.2017. It is also not in dispute that such inspection is normally done in the calendar months of August-September. This position is not disputed by the learned Additional Government Pleader and the learned counsel for the third respondent.

9. Owing to all the facts that have been stated supra, the main writ petition is disposed of on the following terms:

(i) Both the impugned orders being order passed by the 2nd respondent bearing Na.Ka.No.10049/Aaa 1/2011 dated 30.11.2011 and the one passed by the 3rd respondent bearing No. Nil dated 22.12.2011 are hereby set aside.

(ii) Writ petitioner will continue to work as PG Assistant (Commerce) in the 3rd respondent School, without being disturbed until the next inspection is done by respondents 1 and 2, to ascertain the student teacher ratio.

(iii) Respondents 1 and 2 shall conduct the next inspection for ascertaining student teacher ratio in the calendar months of August-September 2017, after completion of the present academic year on 01.06.2017.

(iv) At the time of inspection, if the Management of the 3rd respondent School wants to make any representation to respondents 1 and 2 regarding the student teacher ratio, this order shall not preclude them from making such a representation and the same shall be considered by the respondents 1 and 2 before passing any proceedings in this regard.

(v) This order will not preclude respondents 1 and 2 from taking any decision regarding continuing the writ petitioner in the 3rd respondent School on any other ground other than student teacher ratio. However, such decision shall also be taken only after the calendar months of August-September 2017.

No costs. In view of the order passed in the main writ petition, the miscellaneous petitions are closed as unnecessary.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rg

To

1 JOINT DIRECTOR OF SCHOOL EDUCATION
(HIGHER SECONDARY) CHENNAI-600 006.

2 CHIEF EDUCATIONAL OFFICER
CHENNAI-600 015.

+1cc to Mr.Prem Narayanan, Advocate, S.R.No.10910

+1cc to Mr.C.S.Associates, Advocate, S.R.No.11126

ALA(CO)
RS(08/03/2017)

Writ Petition No.970 of 2012

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