

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.36004 of 2003

M.A.V.M.M. Higher Secondary School,
Madurai,
Represented by its Secretary,
No. Ramadoss Gandhi,
S/o Narayana Chettiar,
Door Nos.7 to 10, East Vadambokki Street,
Yanaikkal, Madurai-1. ... Petitioner

vs

- 1.The State of Tamilnadu,
Represented by its:
Secretary to the Govt. School,
Education (D.I.) Department,
Fort St. George, Chennai - 9.
- 2.The Chief Educational Officer,
Madurai. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records relating to the proceedings made in Na.Ka.No.7863/A3/03 dated 28.10.2003 passed by the second respondent and the consequential order made in Na.Ka.No.7159/A4/03 dated 29.11.2003 issued by the Second Respondent and quash the same and direct the respondents to sanction additional post of B.T. Assistants in the petitioner's School in terms of G.O.Ms.No.525 School Education (D1) Department dated 29.12.1997 issued by the First Respondent.

For Petitioner : Mr.M.Balasubramaniam

For Respondents : Mrs.M.E.Rani Selvam

Addl. Government Pleader

ORDER

This writ petition is preferred by the petitioner to quash the proceedings made in Na.Ka.No.7863/A3/03 dated

28.10.1003 passed by the 2nd respondent / Chief Educational Officer, Madurai and the consequential order made in Na.Ka.No.7159/A4/03 dated 29.11.2003 issued by the 2nd respondent and direct the respondents for sanctioning additional post of B.T. Assistants in the petitioner's school in terms of G.O.Ms.No.525 School Education (D.1) Department dated 29.12.1997 issued by the 1st respondent.

2. Brief case of the petitioner:

The facts of the case is that the petitioner's school was stated as high School during the year 1959. It was upgraded as Higher Secondary School from 11.7.1978. The petitioner school is an aided school recognized by the Education Department and also receiving the grant and 608 students studying in the school. The Secretary to the Govt. School Education (D.I.) Department, Chennai has issued G.O.M.S.No.525 School Education (D.I) Department dated 29.12.1997 to revise the norms for assessment of Grade for teaching post for all the schools in Tamil Nadu. In respect of High schools and Higher secondary schools where the strength in class IX and X the teacher pupil ratio 1:40 will be followed. If the average attendance is upto 60, the school will be eligible for the post of headmaster and 2 B.T. Assistants and the third post will be given when the strength exceeds 60 pupils and additional sections will be permitted in the slab of 40. The petitioner school is a Higher secondary school having IX and X std. The total number of the students in both the classes is 175 even as per the inspection made on 1.8.2003. In accordance with the aforesaid G.O the petitioner school is entitled to have 5 posts of BT Assistants. The Education Department has sanctioned only 3 posts of BT Assistants. The petitioner has also made number of representation to the Chief Educational Officer, Madurai (2nd respondent) to sanction 2 additional posts of BT assistants.

सत्यमेव जयते

3. The Chief Educational Officer, Madurai, who is the 2nd respondent herein made an order in Na.Ka.No.7863/A3/03 dated 28.10.2003 holding that on the date of inspection, the attendance in Std IX and X is 175 and fixed the B.T. Assistant post as 3 as on 01.8.2003. However, revised the same to 2+1 holding that one post of BT Assistant was in surplus and consequently, by its order in Na.Ka.No.7863/A4/03 dated 29.11.2003 transferred the post along with the teacher (History) to Mangaiyarkaasi Higher Secondary School, Madurai treating the post as surplus in the petitioner school. Only one teacher available to take classes for the subject of history in the petitioner school. If the said post is declared as surplus,

there will not any teach available to teach the said subject.

4.The learned counsel for the petitioner submits that the impugned order passed by the Chief Educational Officer, Madurai / 2nd respondent is contrary to G.O.M.S.No.525 dated 29.12.1997 and consequently the order dated 29.11.2003 is illegal unsustainable and excess of jurisdiction.

5.The learned counsel for the petitioner submits that the Chief Educational Officer, Madurai / 2nd respondent has failed to note that under G.O.M.S.No.525 dated 29.12.1997, the petitioner's school is entitled to hold 5 posts of BT Assistants. However the 2nd respondent erred in reducing the same to 2 posts. The said approach of the second respondent vitiates the entire orders.

6.The learned counsel for the petitioner submits that the Chief Educational Officer, Madurai / 2nd respondent having held that the total number of attendance in IX and X standards as on 1.8.2003 is 175, ought to have sanctioned 5 posts of BT Assistants . But erroneously held that the petitioner school is eligible to hold only 2 posts and declared one post as surplus. The said attitude amounts to violative of principles of natural justice.

7.The learned counsel for the petitioner submits that the Chief Educational Officer, Madurai / 2nd respondent ought to have given an opportunity to the petitioner before declaring one post as surplus and transferred the same to same other school. The non affording such an opportunity amounts to violation of principles of natural justice.

8.The learned counsel for the petitioner submits that the Chief Educational Officer, Madurai / 2nd respondent being a statutory authority ought to have taken note of the welfare of the students and should not have transferred the post and the teach of Social studies subject without considering the fact that there is no other teacher to teach the subject of Social Studies available in the petitioner school.

9.The learned counsel for the petitioner submits that even though the order is dated 29.11.2003, the same was served to the petitioner only 2.12.2003 with a direction to relieve the

teacher on or before 4.12.2003. The petitioner states that half yearly examinations in the school commence on 15.12.2003 for IX and X standards, if the teacher is transferred to some other school, the same will cause hardship and inconvenience to the school management as well as to the students. In view of the facts the operation of the impugned order has to be stayed. Till this date the teacher has not been transferred and continued work in the petitioner school, from 2003 onwards.

10.I have heard Mr.M.Balasubramaniam, learned counsel for the petitioner and Mrs.M.E.Rani Selvam, learned Additional Government Pleader for the respondents and perused the entire materials available on record.

11.In the case on hand, the order issued by the 2nd respondent is not accordance with the rules and regulations of the Government and the deployment orders issued with a view to avoid unnecessary expenditure for the government exchequer cannot be sustained.

12.In the result,

a) this writ petition is allowed, the proceedings made in Na.Ka.No.7863/A3/03 dated 28.10.1003 passed by the 2nd respondent/Chief Educational Officer, Madurai and the consequential order made in Na.Ka.No.7159/A4/03 dated 29.11.2003 are quashed.

b) the respondents are directed to sanction the Additional Post of B.T.Assistant in the petitioner's school in terms of G.O.M.S.No.525 School Education 1(D1) dated 29.12.1997 issued by the first respondent.

c) the said exercise shall be done within a period of 12 weeks from the date of receipt of this order. No Costs.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

vs

To

1.The Secretary to the Govt. School,
Education (D.I.) Department,
Fort St. George, Chennai - 9.

2.The Chief Educational Officer,
Madurai.

+lcc to Government Pleader SR.No.61322

W.P.No.36004 of 2003

PP(CO)
GMY(18/03/2019)



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