

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.NO. 33723 of 2018

Periyasamy High School (Partly Aided)
Rep. by its correspondent/Secretary,
G.Kalavathy, Mettur Main Road,
Ammamet-638 311, Bhavani Taluk,
Erode District.

..... Petitioner

Vs

- 1.The Joint Director of Secondary Education,
(Aided), Directorate of Secondary Education,
College Road, Chennai- 600 006.
- 2.The Chief Educational Officer,
Old Railway Station Road, Erode-1.
- 3.The District Educational Officer,
Bhavani, Erode District.
- 4.The Director of Elementary Education,
Directorate of Secondary Education,
College Road, Chennai-600 006.

..... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st respondent to grant permission to the petitioner school to fill up the existing retirement vacancy in the aided post of Physical Education Teacher (PET) for 6th to 8th Standard by considering the representation dated 06.07.2017, 16.08.2017, 03.01.2018 and 08.10.2018.

For Petitioner : Mr.N.Manokaran

For Respondents : Mrs.P.Kavitha-Government Advocate

O R D E R

Thi writ petition has been filed, seeking direction to the first respondent to grant permission to the petitioner school to

fill up the existing retirement vacancy in the aided post of Physical Education Teacher (PET) for 6th to 8th standard by considering the representation dated 06.07.2017, 16.08.2017, 03.01.2018 and 08.10.2018.

2. The petitioner school was established for imparting elementary education to the rural children and is functioning for the past 83 years. One Mrs.T.P.Dhanalakshmi was appointed as Physical Education Teacher (PET) with the approval of District Education Officer, Gobi and she was relieved from service on 31.05.2012 after her retirement. Then, the School Committee of the petitioner school passed a resolution for filling up the vacancy position of Physical Education Teacher (PET) and sent a representation to DEEO, Erode and AEEO, Ammapet, seeking permission to fill up the vacant post based on the resolution. Petitioner again sent a representation to consider the request for the appointment of a Physical Education Teacher (PET) in order to comply with the direction issued by the fourth respondent. As the said representations did not evoke any response, the petitioner filed W.P.No.21756 of 2015 and the same was disposed of with a direction to the respondents to dispose of her representation within four weeks from the date of receipt of a copy of the order.

3. Thereafter, the Joint Director of School Education passed an order dated 21.09.2015, rejecting the petitioner's request on the ground that the school did not have the required strength for middle school. Challenging the same, the petitioner filed W.P.No.33513 of 2015 and during the pendency of the writ petition, the petitioner school was upgraded from middle school to High School as per the order issued by the first respondent and after the upgradation, the first respondent became the competent authority to approve the filling up of the vacant post. So, the petitioner has sent representations to the first respondent to fill up the existing vacancy in the post of Physical Education Teacher (PET). Subsequently, W.P.No.33513 of 2015 was disposed of by an order dated 11.09.2018, directing the first respondent to pass orders on the representation dated 03.01.2018, on merits within eight weeks from the date of receipt of the order. Immediately, the petitioner has sent a representation to the first respondent along with the order dated 11.09.2018 to approve the existing vacancy in the post of Physical Education Teacher (PET). The said representation did not evoke any response till date, and therefore, the petitioner has filed the present writ petition.

4. Learned counsel for the petitioner would point out that the sanctioned strength of the school is 114, which is more than 100 and the eligibility criteria having been satisfied, the respondent should sanction the post of Physical Education

Teacher (PET). Learned counsel for the petitioner also relied upon the Division Bench judgment of this Court rendered in W.A.No.226 of 2009 and W.P.No.25348 of 2008 reported in 2010 (1) CWC 141 (The Director of School Education -Vs- Uma), wherein the importance of education to the student community has been emphasized. The Division Bench of this Court has held as follows,

18. Stressing the importance of physical activities for the children, National poet Mahakavi Subramania Bharathi wrote "Xo tpisahL ghg;gh eP Xa;e;jpUf;fyhfhJ ghg;gh", Children are not having proper physical exercise nowadays and they are tied up with Television and books leading to obesity. There is no occasion for the children to play in the urban areas and they are required to compulsorily go for physical education in the school where they can have good exercise by playing. How the physical education is neglected is proved by recent survey. It is published as "STUDENTS TURNING COUCH POTATOES" (Down loaded from internet).

21. "Physical education" as the nomenclature denotes is a separate education distinct from academic education and it is required to be given special attention. According to Oxford English Dictionary, "Physical Education" means:

"Instruction in physical exercise and games especially in schools".

As per the American Heritage Dictionary of the English Language, Fourth Edition "Physical Education" means:

"Education in the care and development of the human body, stressing athletics and including hygiene"

Physical education gives good health, builds self esteem, develops co-operation, team work and sportsmanship skill and physically active lifestyle, apart from preventing diseases. Future of the country depends upon our children. If our children are not properly groomed up mentally and physically

in an appropriate proper manner, it will badly reflect on the future of our nation. Every one is concentrating on academic excellence neglecting physical education, whereas both are like human eyes.

5. Learned counsel for the respondent would point out that the competent authority is only Directorate of School Education. Learned counsel for the petitioner would point out that the Joint Director of Secondary Education himself should have forwarded the proposal to the Director of School Education, but that has not been done.

6. Under the circumstances, the first respondent / Joint Director of Secondary Education is directed to forward the proposal of the petitioner school to the Director of School Education and in that event, the Director of School Education, without relying upon technicalities, shall grant permission to fill up the post of Physical Education Teacher within a period of six weeks from the date of receipt of a copy of the order. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Joint Director of Secondary Education,
(Aided),
Directorate of Secondary Education,
College Road,
Chennai- 600 006.

2.The Chief Educational Officer,
Old Railway Station Road,
Erode-1.

3.The District Educational Officer,
Bhavani,
Erode District.

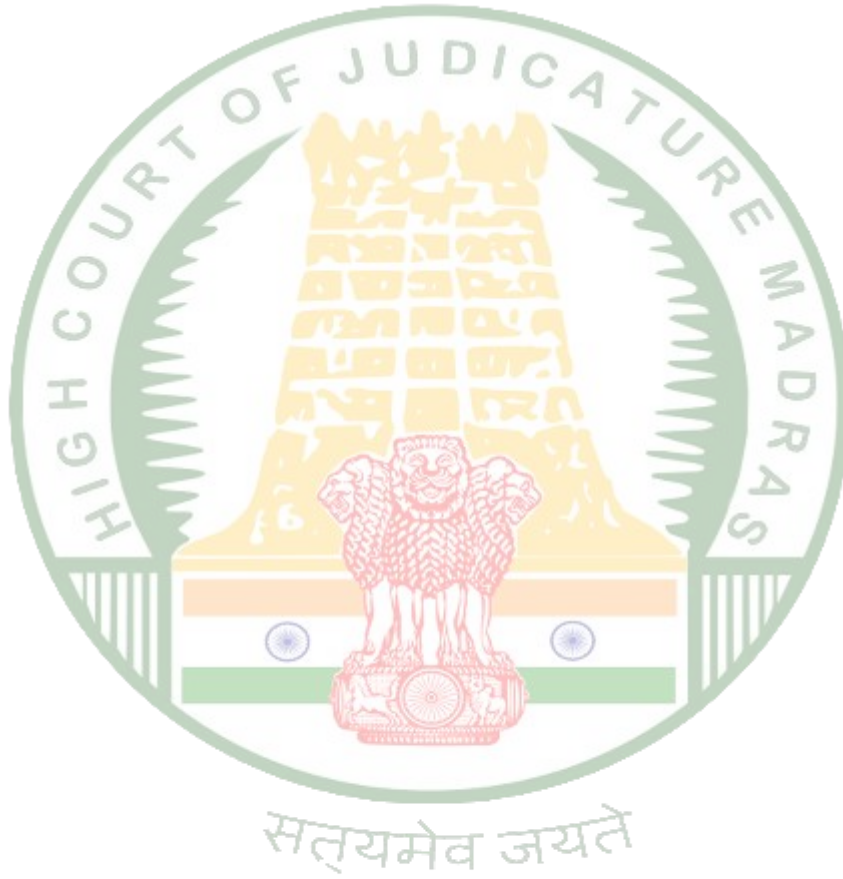
4.The Director of Elementary Education,
Directorate of Secondary Education,
College Road,
Chennai-600 006.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.88640

+1cc to the Government Pleader, S.R.No.88980

W.P.No. 33723 of 2018

RK(CO)
GSP(23/01/2019)



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