



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P(MD)No.3793 of 2018

A.M.Sundaravel

... Petitioner

Vs.

- 1.The Chief Secretary,
Tamilnadu Government,
Chennai - 9.
- 2.The Principal Secretary,
Government of Tamilnadu,
Education Department,
Chennai - 9.
- 3.The Director of School Education,
School Education Directorate,
Chennai - 6.
- 4.The District Collector,
Tirunelveli District,
Tirunelveli.
- 5.The Deputy Commissioner of Labour,
Tirunelveli.
- 6.The Inspector of Labour,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the Respondents herein to take appropriate steps on the petitioner's representations dated 12.08.2016 to collect the salary details of both the teachers/professors working in the private sector/colleges of having degrees with B.Ed., B.E., M.E., and the teachers/professors working in the Government/Government aided colleges with the same qualification, to fix the salary as the same as the teachers/professors of the Government/Government Aided colleges by directing the respondents to take appropriate steps within a stipulated time frame as fixed by this Hon'ble Court.

For Petitioner : Mr.A.M.Sundaravel (Party-in-person)

For Respondents : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J.)



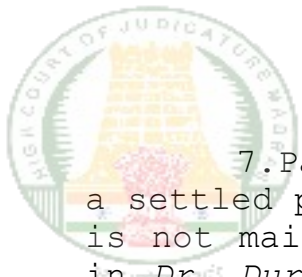
2.This Writ Petition styled as a Public Interest Litigation filed by the petitioner/party-in-person, stating among things that the teachers and professors working in private schools/colleges are paid with a minimum salary ranging from Rs.3,000/- to Rs.5,000/-, despite having the qualification of B.Ed., B.E., M.E., etc.,, whereas the teachers working in Government Schools and Colleges have been paid with abundant salary. Though both of them performing similar work and discharge the same responsibility, there is wide gap between the salary being paid to the teachers employed in private institutions and the teachers employed in Government Schools. The petitioner in this regard has also submitted a representation dated 12.08.2016, to the Hon'ble Chief Minister's Grievance Cell and it was forwarded to the Inspector of Labour, Tirunelveli, who vide communication dated 24.11.2016, in Na.Ka.No.A/8439/2016, informed the petitioner that since the fixation of salary in private institutions pertains to the policy of the Government, no action can be taken. The petitioner also submitted one more representation dated 14.03.2017, to the Hon'ble Chief Minister of Tamil Nadu, pointing out the said discrepancy and also marked copies to Principal Secretary, Education Department, Director of School Education and the District Collector, Tirunelveli and despite receipt and acknowledgement, no order has been passed and hence, he is constrained to approach this Court with the present Writ Petition.

3.Heard the petitioner/party-in-person and Mr.C.M.Marichelliah Prabhu, learned Additional Government Pleader, who accepts notice for the respondents.

4.The petitioner/party-in-person has drawn the attention of this Court to the typed set of papers and submitted that the teachers/professors working in private institutions are being paid salary less than the minimum wages and despite having qualification and performing better, their salary is very low. Therefore, prays for appropriate orders to set right the same.

5.Per contra, Mr.C.M.Marichelliah Prabhu, who accepts notice on behalf of the respondents has invited the attention of this Court to the judgment of the Full bench of this Court in *The Correspondent/Principal, Arokiamada Matriculation Higher Secondary School v. T.Sorubarani (deceased)* reported in 2015 (2) CWC 732 and would submit that as per the ratio laid down by the Full Bench of this Court, the State Governments cannot compel the private Unaided Schools to pay salary to its staff on par with Government Schools and that the Writ of Mandamus is not maintainable as no public element is involved.

6.This Court has paid its best attention to the rival submissions and perused the materials placed on record.



7. Payment of salary pertains to service conditions and it is a settled position of law that in Service public interest litigation is not maintainable as per the decision of the Hon'ble Apex Court in *Dr. Duryodhan Sahu v. Jitendra Kumar Mishra* [(1998) 7 SCC 273]. Very same view has been taken in yet another decision of the Hon'ble Apex Court in *Mrs. S. Sharma v. St. Paul Senior Secondary School* [2011 (9) Scale 92], wherein it is held that the teachers of private unaided schools have no right to claim equal right to that of their counterparts working in the Government school and Government aided Schools. The Full Bench of this Court in *The Correspondent/Principal, Arokiyama Matriculation Higher Secondary School v. T. Sorubarani (deceased)* (supra) has held that the State Government cannot compel private aided schools to pay salary on par with the employees in the Government schools and it is also held in the decision that since no public element is involved the writ petition is not maintainable. In the light of the said legal position, this Court is not in a position to come in aid of the petitioner/party in person.

8. In the result, the Writ Petition is dismissed. However, the persons who are having grievances in this regard, are at liberty to workout their remedy administratively. No costs.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

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Tamilnadu Government, Chennai - 9.
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3. The Director of School Education,
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Sj

RL/7C/3P/KK/SAR2/6/3/2018