



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.(MD) Nos.48, 7920 and 7921 of 2015
and
W.M.P(MD) Nos.4, 5,1, 2 and 1 of 2015

W.P.(MD) No.48 of 2015

M.James,
Manager & Correspondent,
C.E.Higher Secondary School,
Vannarapet, Tiruchirapalli,
Tiruchirapalli District.

... Petitioner

vs.

- 1.The Director of School Education,
College Road, Chennai-600 006.
 - 2.The Joint Director of School Education,
(Higher Secondary), College Road,
Chennai-600 006.
 - 3.The Chief Educational Officer,
Tiruchirapalli, Tiruchirapalli District.
 - 4.The District Educational Officer,
Tiruchirapalli, Tiruchirapalli District.
 - 5.Viola Virginia,
B.T.Assistant (Maths),
Holy Family RC Higher Secondary School,
Ammapettai, Trichy.
 - 6.Parimala,
B.T.Assistant (History),
St. Anne's Girls Higher Secondary School,
Melapudur, Trichy-1.
- ... Respondents
(R5 and R6 amended as per order
dated 16.02.2015 in M.P No.3 of 2015)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari, calling for the records relating to the impugned Staff-Fixation settled by the third respondent CEO for the year 2014-2015 holding two posts of BT Assistants as surplus and the consequential proceeding issued by the



fourth respondent DEO in Na.Ka.No.7994/A3/2014 dated 31.12.2014 deploying and reliving the said 2 post of BT Assistants, quash the same.

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For Petitioner : Mr.K.Ragatheesh kumar
For R-1 to R-4 : Mrs.S.Srimathy,
Special Government Pleader.
For R-5 and R-6 : Mr.K.Maharajan,

W.P. (MD) No.7920 of 2015

Parimala,
B.T.Assistant (History),
St. Anne's Girls Higher Secondary School,
Melapudur, Trichy. ... Petitioner
vs.

- 1.The Director of School Education,
College Road, Chennai-600 006.
- 2.The Joint Director of School Education,
(Higher Secondary), College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Tiruchirapalli, Tiruchirapalli District.
- 4.The District Educational Officer,
Tiruchirapalli.
- 5.The Correspondent,
CE Higher Secondary School,
Vannarapettai, Trichy-17.
- 6.The Headmistress,
CE Higher Secondary School,
Vannarapettai, Trichy-17. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, directing the fifth and sixth respondents to send the petitioner's service register book along with connected relevant service records to her recent service school (St.Anne's Girls Higher Secondary School, Melapudur, Trichy) where she had joined the recent school by transfer under deployment on the ground of surplus teachers in subject wise ordered by the fourth respondent dated 31.12.2014.

For Petitioner : Mr.K.Maharajan
For R-1 to R-4 : Mrs.S.Srimathy,
Special Government Pleader.
For R-5 : Mr.K.Ragathees Kumar



For R-6

: No appearance

W.P.(MD) No.7921 of 2015

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Viola Virginia,
B.T.Assistant (Maths),
Holy Family RC Higher Secondary School,
Ammapettai, Trichy.

... Petitioner

vs.

- 1.The Director of School Education,
College Road, Chennai-600 006.
- 2.The Joint Director of School Education,
(Higher Secondary), College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Tiruchirapalli, Tiruchirapalli District.
- 4.The District Educational Officer,
Tiruchirapalli.
- 5.The Correspondent,
CE Higher Secondary School,
Vannarapettai, Trichy-17.
- 6.The Headmistress,
CE Higher Secondary School,
Vannarapettai, Trichy-17.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, directing the fifth and sixth respondents to send the petitioner's service register book along with connected relevant service records namely increment, P.F, D.A, E.L and bonus etc. to the petitioner's recent service school (Holy Family RC Higher Secondary school, Ammapettai, Trichy) where she had joined the recent school by transfer under deployment on the ground of surplus teachers in subject wise ordered by the fourth respondent dated 31.12.2014.

For Petitioner : Mr.K.Maharajan
For R-1 to R-4 : Mrs.S.Srimathy,
Special Government Pleader.

For R-5 : Mr.K.Ragathees Kumar

For R-6 : No appearance

COMMON ORDER

Heard both sides.

2. The brief facts of the cases are as below:

(i) The CE Higher Secondary School, Vannarapettai, Trichy is an aided private school. Pursuant to G.O.(Ms)No.525, dated 29.12.1997, considering the students' strength, the Chief Educational Officer, Trichy has found two posts is in surplus and hence, passed an order dated 31.12.2014 withdrawing two posts from CE Higher Secondary School and posted them to Holy Family RC Higher Secondary School, Ammapettai, Trichy and St. Anne's Girls Higher Secondary School, Melapudur, Trichy respectively. Aggrieved by that, the management has preferred the writ petition in W.P.(MD) No.48 of 2015, Parimala who is the sixth respondent in W.P.(MD)No.48 of 2015 has preferred W.P.(MD) No.7920 of 2015 and Viola Virginia who is the fifth respondent in W.P.(MD)No.48 of 2015 has preferred W.P(MD)No.7921 of 2015.

(ii) While the management has sought for a writ of certiorari to quash the impugned order dated 31.12.2014 deploying and relieving, the respondents 5 and 6 have filed W.P(MD) Nos.7920 and 7921 of 2015 seeking mandamus to direct the Correspondent and Headmistress of CE Higher Secondary School to forward the Service Register and service particulars to the authorities for regularizing their service and pass appropriate orders.

(iii) The sum and substance of the writ petitions are that whether withdrawal of the two posts from CE Higher Secondary School citing the students' strength is in consonance with the Government orders.

3. The learned counsel appearing for the Management who is the petitioner in W.P.(MD) No.48 of 2015 would contend that G.O(Ms) No.525 of 1997 is not in consonance with the subsequent reforms brought in by the State in view of the Constitutional amendment and introduction of Right of Children to Free and Compulsory Education Act, 2009. Further, the impugned order is challenged on the ground that the petitioner institute is running a School since 1997, which was initially established as a Middle School in the year 1978 and later upgraded as a High School in the year 1980 and further upgraded as a Higher Secondary School in the year 1996. The school is offering education from Standards VI to XII. Being a recognized Religious Minority Educational Institution, withdrawal of two teaching staff has caused hardship to the Management as well as welfare of the Students.

4. It is contended by the learned counsel appearing for the Management in W.P.(MD) No.48 of 2015 that on the date of passing the impugned order, 89 students were studying between VI standard to X standard in the writ petitioner's institute. Before passing of the



impugned order, six teachers and one Headmistress were put in service. By withdrawing Maths Teacher and Social Science Teacher, the students are deprived of Teachers qualified in Maths and Social Science.

5. Further, it is contended by the learned counsel appearing for the Management in W.P.(MD) No.48 of 2015 that the Headmistress who is supposed to take care of the Administration of the school, cannot handle the classes equal to that of the other teachers. So, if the service of the Headmistress is excluded for teaching purpose, only four Teachers are available in the writ petitioner's school to handle five classes. Even if G.O(Ms) No.525 dated 29.12.1997 is to be taken into account, for five classes literally the writ petitioner's institute is having only four Teachers and further more, there is no Teacher for handling Social Science and English.

6. Referring the said G.O., the learned counsel would submit that though the Teacher-student ratio is prescribed as 1:40, in the writ petitioner's school which is having primary classes also, the Teachers who are handling primary classes have to be specially qualified. The secondary Grade Teachers cannot be asked to handle higher secondary school and vice versa. Likewise, while the Constitution by virtue of Article 21(A) mandates free education for all the children upto 14 years under the Right of Children to Free and Compulsory Education, Act 2009, has prescribed new ratio for Teacher-student. The impugned order relying upon the G.O (Ms) No.525 dated 29.12.1997 requires reconsideration and is liable to be quashed.

7. The learned Additional Government Pleader appearing for the respondents 1 to 4 has filed a counter, wherein while justifying the withdrawal of the surplus Teachers, she would submit that the writ petitioner's institute being an aided school, have hardly 89 students between six standard to tenth standard. Considering the strength, if ratio 1:40 is applied, only two posts can be sanctioned. However, taking note of the fact that each classes should have at least one Teacher, the authorities have thought fit that five posts to be retained and the surplus two posts to be distributed elsewhere and accordingly, the impugned order has been passed.

8. Pursuant to the impugned order, the respondents 5 and 6 who are the petitioners in W.P.(MD) Nos.7920 and 7921 of 2018 have appointed in the respective schools. Since it is a grant in aid given by the State to the institute, it cannot be granted as a gratis but it should be proportionate to the service. As far as the writ petitioner's institute is concerned, when only 89 students are enrolled between 6th to 10th standard, the State cannot afford to give more grant than what is required.

9. The learned counsel appearing for the writ petitioners in W.P.(MD) Nos.7920 and 7921 of 2015 would submit that in reference to the order passed by the first respondent, the petitioners have joined in

the respective schools. However, the management (petitioner in W.P (MD) No.48 of 2015) has not forwarded the service records to the authorities and thereby they have now deprived of increment, leave salary and other benefits.

10. The learned counsel would also submit that the contention of the learned counsel appearing for the Management is not factually correct. After passing of the impugned order, the students strength of the institute has still gone down and if the present student-teacher ratio is re-appreciated again, there will be surplus as of now.

11. The contention of the management is that G.O(Ms)No.525 cannot put into service without considering the factual situation and for handling five classes, five teachers may not be sufficient, since each teacher has to handle at least 14 periods in a week. It will be highly excessive considering the norms fixed for a Teacher. Further, the learned counsel would also point out that when there are 5 subjects and few special subjects including language, unqualified Teachers cannot be pressed into service to handle the subject, which they are not familiar. By withdrawing Social Science Teacher, the management is left with no Social Science Teacher and there is no Teacher to handle the English subject.

12. The learned counsel would also refer the judgment of the Full Bench of this Court in the case of *Director of Elementary Education Vs. S.Vigila* reported in 2006 (5) CTC 385. The relevant portion reads as under:-

22. As rightly observed by the latter Division Bench, the G.O.Ms.No.525 has to be interpreted in a meaningful manner keeping in view the background in which such G.O. came to be issued. As per the existing instructions applicable, the ratio of teacher was dependant upon students strength in each individual standard, but it has been laid down that maximum strength in a particular section or a class should be 35 or 40. In other words, either no admission was required to be made in excess of 35 or 40 or if such admission was made taking relevant permission, an additional section was required to be created. In the context of the aforesaid background, the present G.O.Ms.No.525 indicates that an additional section is required to be created only when the students' strength in a standard becomes 60 or more. It is evident that G.O.Ms.No.525 has intended to change this aspect and that is the reason why it has been indicated that when the students strength becomes 100, a third teacher can be appointed. If it has to be understood that the ratio of 1:40 is to be maintained in respect of the entire school, it is not understood as to why it would be laid down in the G.O that a third teacher would be available when the students strength reaches 100. This is rather indicative of the fact that the G.O was



concerned about the creation of additional section. If the students' strength in a particular standard remains 60 and below, there is no necessity to create an additional section and the necessity to create additional section arises only when the student strength in a particular standard exceeds 60 and that is why it has been stated that if students' strength is further increased by 40 more another teacher would be sanctioned or would be required. The G.O cannot be interpreted to do away with requirement of having at least one teacher for each standard or section (wherever creation of additional section is justified)

13.The above judgment has been rendered by the Full Bench of this Court. When G.O (Ms) No.525 dated 29.12.1997 was challenged, in the said judgment the Court has also laid down the way in which the said G.O should be interpreted and one of the guidance as found in the said judgment is that the minimum strength of Teacher required obviously should not fall below the number of standards/section in a school. In other words if there are five standards, obviously the minimum number of teachers should be five, out of which one would be the Headmaster. This guidelines of the Full Bench is the nail on the head.

14.Here is an institute which has hardly 89 students for five classes. The Government vide impugned order has allowed the institute to retain five teachers including Headmistress. The petitioner's management with 89 students cannot expect more financial support from the State than what is now granted by the impugned order, the maximum, which the institution can expect from the State.

15.Therefore, this Court finds no illegality in the impugned order. Hence, W.P(MD) No. 48 of 2015 is dismissed.

16.Pursuant to the impugned order, the surplus staff, who have filed W.P(MD) Nos.7920 and 7921 of 2018, have been deployed to the other schools. It has now been held as legal in W.P(MD) No.48 of 2015. Therefore, these two writ petitioners are entitled all the benefits consequential to the redeployment pursuant to the impugned order. If the management has not forwarded the service particulars so far, they are hereby directed to forward forthwith. If there is any delay beyond 30 days from the date of this order, the management shall be held responsible for any delay in payment and consequential benefits including interest, which the petitioners herein are entitled. The fourth respondent herein is directed to ensure the service records of these petitioners are received from the management and forwarded to the second respondent as early as possible. Accordingly, W.P(MD) Nos.7920 and 7921 of 2015 are



allowed. No costs.
petitions are closed.

Consequently, connected miscellaneous

Sd/
Assistant Registrar(CO)

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Sub Assistant Registrar(CS-III)

To:

- 1.The Director of School Education,
College Road, Chennai-600 006.
- 2.The Joint Director of School Education,
(Higher Secondary), College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Tiruchirapalli, Tiruchirapalli District.
- 4.The District Educational Officer,
Tiruchirapalli, Tiruchirapalli District.

+4cc to Mr.K.MAHARAJAN, Advocate, SR.No.95321,95486
+3cc to M/S.ISAAC CHAMBERS, Advocate, SR.No.95428
+1cc to M/s.Special Government Pleader,SR.No. 95381

W.P.(MD) Nos.48, 7920 and 7921 of 2015
and
W.M.P(MD) Nos.4, 5,1, 2 and 1 of 2015
14.11.2018

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