



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.03.2018
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .Nos. 14579, 21335, 12510, 13462, 21996/17, 4489/18,
3667/17, 24608/16, and 10824 of 2017

and

W.M.P. (MD) .Nos. 11428, 17596, 10529, 18304 to 18306, 2943, 17737 to
17739/16, 11120 and 8249 of 2017

THE CORRESPONDENT, ST.THERESAS R.C.MIDDLE SCHOOL, PUSHPAVANAM,
TIRUNELVELI DISTRICT-627 109.

... Petitioner(s) in WP(MD). 14579/ 2017 and WP(MD)21335

THE CORRESPONDENT, SACRED HEART HIGHER SECONDARY SCHOOL,
SATHANKULAM, TUTICORIN DISTRICT - 628 704

... Petitioner(s) in WP(MD). 21335/ 2017

THE CORRESPONDENT, TNDTA MIDDLE SCHOOL, ATHISAYAPURAM,
SATHANKULAM TALUK, TUTICORIN DISTRICT - 628 656.

... Petitioner(s) in WP(MD). 12510/ 2017

THE CORRESPONDENT R.C.MIDDLE SCHOOL, MITTATHARKULAM,
RADHAPURAM TK, TIRUNELVELI DISTRICT.

... Petitioner(s) in WP(MD). 13462/ 2017

THE CORRESPONDENT ST. MARYS MIDDLE SCHOOL, ADAIKALAPURAM,
TUTICORIN DISTRICT - 628 217

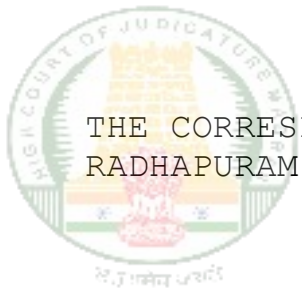
... Petitioner(s) in WP(MD). 21996/ 2017

HINDU MIDDLE SCHOOL REP. BY ITS SECRETARY, CHETTIKULAM & POST,
RADHAPURAM TALUK, TIRUNELVELI DIST

... Petitioner(s) in WP(MD). 4489/ 2018

THE CORRESPONDENT R.C.MIDDLE SCHOOL, CHIDAMBARAPURAM,
PUDUKULAM - 628 704, TUTICORIN DISTRICT.

... Petitioner(s) in WP(MD). 3667/ 2017



THE CORRESPONDENT, ST.ANTONYS MIDDLE SCHOOL, KOOTTAPANAI,
RADHAPURAM (TALUK), TIRUNELVELI DISTRICT - 627 651

... Petitioner(s) in WP(MD). 24608/ 2016

THE CORRESPONDENT ST.FRANCIS XAVIER HIGH SCHOOL, K.AVARAMPATTY,
BEGAMPUR, DINDIGUL DISTRICT- 624002.

... Petitioner(s) in WP(MD). 10824/ 2017

vs

THE STATE OF TAMILNADU, REP. BY ITS SECRETARY, DEPARTMENT OF
SCHOOL EDUCATION, FORT ST. GEORGE, CHENNAI-600 009.

...1st Respondent in WP(MD). 14579/ 2017 &

WP(MD)No.4489/2018 and WP(MD).21335/2017

2 THE DIRECTOR OF ELEMENTARY SCHOOL EDUCATION, COLLEGE ROAD,
CHENNAI-600 006.

... 2nd Respondent in WP(MD)No.14579 of 2017 & WP
(MD)4489 of 2018 & 1st Respondent in WP(MD)
No.24608/2016 in WP(MD)10824/2017

3 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER, TIRUNELVELI,
TIRUNELVELI DISTRICT. ...3rd Respondent in WP(MD)14579 of
2017&WP(MD)No.4489/2018

2nd Respondent in WP(MD)No.24608/2016 &

1st Respondent in WP(MD)No.13462/2017

4 THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER, VALLIYOOR,
TIRUNELVELI DISTRICT.

...4th Respondent in WP(MD)14579 OF 2017&WP(MD)
4489 of 2018

5 THE DIRECTOR OF SCHOOL EDUCATION, COLLEGE ROAD,
CHENNAI - 600 006

... 2nd Respondent in WP(MD)21335/2017&1st
Respondent in WP(MD)No.10824 of 2017

6 THE DISTRICT EDUCATIONAL OFFICER, TUTICORIN, TUTICORIN
DISTRICT.

.... 3rd Respondent in WP(MD)21335/2017

7 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER, TUTICORIN,
TUTICORIN DISTRICT.

... 1st Respondent in WP(MD)No.12510/2017 and WP
(MD)No.21994 of 2017



2017 & 1st Respondent in
21996/17

8 THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER, SATHANKULAM,
TUTICORIN DISTRICT.

...2nd Respondent(s) in WP(MD). 12510/ 2017
&WP (MD) No.3667/2017

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9 THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
RADHAPURAM, TIRUNELVELI DISTRICT

... 2nd Respondent(s) in WP(MD)13462/2017

3rd Respondent in WP(MD)24608/2016

10 THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
TIRUCHENDUR UNION, TUTICORIN DISTRICT.

... Respondent(s) in WP(MD). 21996/ 2017

11 THE JOINT DIRECTOR OF VOCATIONAL EDUCATION (SECONDARY),
COLLEGE ROAD, CHENNAI-06 ..2nd Respondent in WP(MD)
No.10824/2017

12 THE CHIEF EDUCATIONAL OFFICER DINDIGUL, DINDIGUL DISTRICT.

..3rd Respondent in WP(MD)No.10824/2017

13 THE DISTRICT EDUCATIONAL OFFICER, DINDIGUL, DINDIGUL
DISTRICT. ... 4th Respondent(s) in WP(MD). 10824/ 2017

14 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
SRI NALLAIYAPPAR HIGH ROAD,

TIRUNELVELI ...2nd Respondent in WP(MD)24608/2018

Prayer in WP(MD). 14579/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified mandamus calling for the records relating to the impugned staff-fixation for the academic year 2012-2013 issued by the 3rd respondent herein in proceedings No.Nill dated 01.08.2013 and subsequent impugned proceedings issued by the 4th respondent herein vide Na.Ka. No.2451/Aa1/2016 dated 25.04.2017 quash the same and further direct the 3rd respondent herein to approve the appointment of Mrs.C.Maria Vini as Pre Vocational Instructor (Sewing) in the petitioner school and disburse salary and other attendant benefits w.e.f.24.06.2013.

Prayer in WP(MD). 21335/ 2017 :

<https://hcservices.ecourts.gov.in/HCServices/> Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the 3rd respondent herein to consider and pass



orders on proposal dated 07.09.2016 submitted by the petitioner school seeking approval of appointment of Mrs.A.Pattusavariammal as Pre-Vocational Instructor (Sewing) w.e.f. 01.06.2016 in the petitioner school with salary and all attendant benefits in light of this Honble Court order dated 19.04.2017 in W.A.(MD).No.421 of 2017.

Prayer in WP(MD). 12510/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd respondent herein vide A.Thi.Mu.No.135/A.1/2017 dated 10.04.2017 Quash the same and further Direct the 1st respondent herein to approve the appointment of S.Jasmine Geetha as Pre-Vocational Instructor (Sewing) in the petitioner school and disburse salary and other attendant benefits w.e.f., 10.08.2011.

Prayer in WP(MD). 13462/ 2017 :

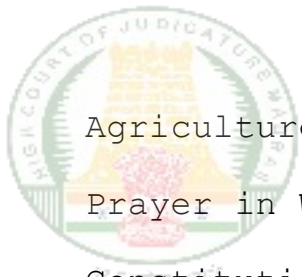
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Staff - Fixation for the academic year 2016-2017 issued by the 1st Respondent DEEO in proceedings No. Nil dated 15.03.2017 and subsequent impugned proceedings issued by the 2nd respondent herein vide Na.Ka.No. 256/Aa2/2017 dated 24.04.2017 quash the same and further Direct the 1st Respondent herein to approve the appointment of S.Joselin Sahaya Praba as Pre -Vocational Instructor (Sewing) in the petitioner school and disburse salary and other attendant benefits w.e.f.18.01.2017.

Prayer in WP(MD). 21996/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the impugned Staff-Fixation for the academic year 2016-2017 issued by the 1st respondent DEEO in proceedings No. Nil dated 15.03.2017 quash the same and further direct the 1st respondent herein to approve the appointment of J.Andraleense as Pre-Vocational Instructor (Sewing) in the petitioner school w.e.f. 08.06.2017 with salary and other attendant benefits.

Prayer in WP(MD). 4489/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent herein in O.Mu.No.4604/A2/2017 dated 12.01.2018, quash the same and further Direct the 1st and 2nd respondents herein to grant permission to fill up the post of Full-time Pre-Vocational Instructor (Sewing) in the petitioner - school by issuing necessary orders for conversion of



Agriculture subject into Sewing Subject.

Prayer in WP(MD). 3667/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Staff-Fixation for the academic year 2015-2016 issued by the 1st respondent DEEO in proceedings No. Nil dated 24.02.2016 and subsequent impugned proceedings issued by the 2nd respondent herein vide A.Thi.Mu.No.27/A1/2017 dated 27.01.2017 Quash the Same and further Direct the 1st respondent herein to approve the appointment of X.Daisy Sevagi as Pre-vacational Instructor (sewing) in the petitioner school and disburse salary and other attendant benefits w.e.f.16.12.2016.

Prayer in WP(MD). 24608/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned staff fixation settled by the 2nd respondent District Elementary Educational Officer for the Academic year 2015-2016 dated 11.02.2016, in so far as it renders the post of Sewing Mistress as surplus is concerned and the consequent proceeding issued by the 3rd respondent AEE0 in O.Mu.No.714/a2/16 dated 04.11.2016, denying approval to the appointment of B.Anita as Sewing Mistress quash the same and further direct the 2nd respondent District Elementary Educational Officer to approve forthwith the appointment of B.Anita as Sewing Mistress in the petitioner's school, and disburse grant-in-aid towards her salary and other attendant benefits w.e.f. The date of here appointment viz., 22.08.2016.

Prayer in WP(MD). 10824/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the respondents herein to approve forthwith the appointment of M.Regina as Pre-vocational Instrucor(Sewing) in the petitioners school w.e.f. 01.09.2015 by converting the pot of Pre-Vocational Instructor (Weaving) into Pre-Vocational Insturctor (Sewing) and disburse the salary and all other attendant benefits.

For Petitioner :Mr.A.Ajith Geethan

in Wps.14579,21335,12510,13462,21996,3667/17

For Respondents:Mr.VR.Shanmuganathan,

Special Government Pleader in all Wps

WP(MD)No.4489/2018 :Mr.E.V.N.Siva for Petitioner

WP(MD)No.24608/2016:Mr.T.Cibi Chakraborty for
Petitioner



WP (MD) No.10824/2017:M/s.Amala, for M/s.Issac Chambers
for Petitioner

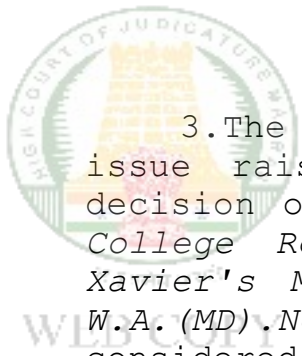
COMMON ORDER

WEB COPY [Order of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.A.Ajith Geethan, learned counsel appearing for the petitioner and Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

2.The batch of cases can be categorized as follows:

S.No.	W.P.Nos.	Nature of relief
1.	W.P. (MD) . No.14579/2017	Seeking conversion of the Pre-Vocational Instructor (Agriculture) to Sewing and to approve the appoint of Sewing post without reference to the order determining the students strength.
2.	W.P. (MD) . No.21335/2017	To approve the appointment of Pre-Vocational Instructor in the subject Sewing by converting the post from Agriculture.
3,4,5 ,6	W.P. (MD) .Nos.12510, 13462, 21996 and 3667 of 2017	The approval for appointment of the Vocational Instructor has been rejected on the alleged ground of fall in students strength.
7.	W.P. (MD) . No.24608/2016	To approve the appointment of Vocational Instructor (Sewing) on the ground of fall in students strength.
8.	W.P. (MD) . No.10824/2017	To direct the respondent to approve the appointment of Sewing Instructor by converting the post of Weaving Instructor
9.	W.P. (MD) .No.4489/2018	This writ petition is filed by non-minority aid Institution challenging the rejection of the appointment of Vocational Instructor in Sewing by converting the post from Agriculture Subject.



3.The learned counsel for the petitioners submitted that the issue raised in all these writ petitions is covered by the decision of this Court in case of *The Directorate of Elementary, College Road, Chennai and others Vs. The Correspondent, St. Xavier's Middle School, Sethukkuvaithan, Tuticorin District*, in W.A.(MD).No.1295 of 2016 dated 05.03.2018. In the said case, we considered both the issues as to whether the respondents can refuse to approve the appointment merely because, the post was converted to either Sewing or Music. The other issues which were considered with regard to the staff strength. We also considered the very same issue with regard to the aided non-minority institution also and the appeals filed by the Director of Elementary Education, were dismissed. At this juncture, it will be useful to refer the said judgment in its entirety:

"Heard Mr.D.Murugesan, learned Additional Government Pleader appearing for the appellants and Mr.K.Prabhu, learned counsel appearing for the respondent.

2.This appeal is directed against the order passed by the learned Single Judge dated 22.06.2016 made in W.P.(MD)No.14547 of 2010.

3.The respondent Institution filed the writ petition challenging the order dated 24.06.2010 and the consequential order of the third respondent dated 21.04.2010 signed on 22.07.2010 refusing to approve the appointment of Tmt.M.Kokila as Sewing Mistress in the respondent school and sanction and to disburse salary, allowances and other attendant benefits. The learned Single Judge allowed the writ petition following the decision of the Division Bench in W.A.(MD) No.16 of 2011 dated 28.01.2011. The educational department is on appeal as against the said order.

4.The issue involved in this writ petition was as to whether the respondents/appellants were justified in refusing to approve the appointment of the respondent Tmt.Kokila as Sewing Mistress in the respondent school. The reason for rejection of the application is by placing reliance on G.O.Ms.No.168 School Department dated 13.09.2006. In the said Government Order, a direction was issued that while sanctioning the post of full time Craft Instructors, the Government had specifically mentioned that there should be atleast 5 sections in 6-8 classes having workload of not less than 18 periods in the higher elementary schools. Pre-vocational instructors, who were working during 1960-63 were allowed to continue with reference to the work periods. Similarly, the teachers appointed as Pre-vocational instructors during 1963 - 64 to 1973 - 74 were permitted to



continue, when the schools had less than 5 sections in 6-8 classes. However, this exemption appears to have not been extended for appointments made after the year 1973-74. By referring to the said Government order, it was contended that the said Tmt.Kokila was appointed in a retirement vacancy in the year 2009 and the same cannot be approved as there were no 5 sections in 6-8 classes in the respondent school.

5.The fact remains that the said teacher was appointed in a post, which is a single post, which has been sanctioned to the school much prior to 1991. However, from the Government order, it appears that the exemption was not granted for appointments made after the year 1973-74. It is not clear as to whether the incumbent, who functioned prior to the appointment of Tmt.Kokila was appointed prior to 1973-74 or subsequently. However, the fact remains that she continued to work and receive salary. An identical issue was considered by this Court in the case of N.Regii Mallika Vs. The Director of Elementary Education in W.P.(MD) No.9137 of 2008 dated 20.08.2010. This Court allowed the writ petition taking note of paragraph 5 of the said Government order in G.O.Ms.No.168, School Education (B21) dated 13.09.2006. In paragraph 5, the Government observed that not only 10 Middle schools, who had done appointments after the year 1973-74 without considering the workload may be granted exemption, the said benefit was also directed to be extended to all similar cases as a special case.

6.Therefore, we opined that the stipulations of 5 sections in 6 - 8 classes was considered to be directory and not mandatory and that is why the Government took such a stand not only in respect of 10 middle schools, but also other similar cases. The Government order came to be issued in 2006 and the appointment of Tmt.Kokila was in the year 2009. Above all, there is only one post and therefore, the department cannot insist upon the course being conducted and simultaneously not sanction the post. Apart from that, increasing the number of sections in a class is not at the sole discretion of the management of the institution. Be it an aided non-minority institution or minority institution or for that matter a government institution, it has to abide by the Rules and Regulations, which stipulate its strength of minimum 40 and that strength has to be assessed in August every year for the purpose of assessing the staff strength.



5. The respondents are directed to implement the directions issued by this Court in all the writ petitions, within a period of



12 weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar (AS)

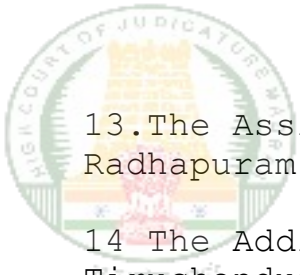
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Sub Assistant Registrar

To

- 1.The Secretary,
State of Tamil Nadu
Department of School Education,
Fort St. George, Chennai-600 009.
- 2.The Director of Elementary School Education,
College Road, Chennai-600 006.
- 3.The Director of School Education, College Road, Chennai-600 006.
- 4.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
- 5.The District Elementary Educational Officer, Tuticorin,
Tuticorin District.
- 6.The District Elementary Educational Officer,
Dindigul district.
- 7.The Assistant Elementary Educational
Officer, Valliyoor,
Tirunelveli District.
- 8.The Assistant Elementary Educational Officer,
Sathankulam, Tuticorin District.
- 9.The Additional Assistant Elementary Educational Officer,
Radhapuram, Tirunelveli District.
- 10.The Additional Assistant Elementary Educational Officer,
Valliyoor, Tirunelveli District.
- 11.The Chief Educational Officer, Dindigul,
Dindigul District.
- 12.The District Elementary Educational Officer,
High Road, Tirunelveli-627 001.



13.The Assistant Elementary Educational Officer,
Radhapuram 627 111, Tirunelveli District.

14 The Additional Assistant Elementary Officer,
Tiruchendur Union, Tuticorin District.

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+6cc to Mr.AJITH GEETHAIYAN, Advocate, SR.No. 56625 TO 56630
+1cc to M/S.ISSAC CHAMBERS, Advocate, SR.No. 56807

W.P.(MD).Nos.14579, 21335, 12510,13462, 21996, 4489, 3667, 24608,
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and

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20.03.2018

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KK/SV MMS/SAR-1/16.05.2018/11P-22C