

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.3741 of 2009

and

M.P.No.1 of 2009

P.Lawrence Selvamani

...Petitioner

Vs

- 1.The Director of School Education cum,
Chairman of the Board of Matriculation Schools,
Chennai - 6.
- 2.The Inspector of Matriculation Schools,
Marketing Committee Building,
Ramanathapuram,
Coimbatore District.
- 3.Father Rapheel Kannanickel,
Correspondent,
Viswadeepthi Matriculation Higher
Secondary School,
Pollachi - 642 003,
Coimbatore District.
- 4.The Principal,
Viswadeepti Matriculation Higher
Secondary School,
Pollachi-3.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus directing the respondents 1 to 4 to revise the scale of pay of the petitioner on par with the teachers of the Government school as fixed by the Sixth Pay Commission and one man Commission and pay the salary with arrears within a reasonable time.

For Petitioner : Mr.Venkataramani, SC for
Mr.M.Muthappan

For R1 & R2 : Mr.P.Raja, GA

For R4 : Mr.R.Krishnaprasad
for M/s.Sarvabhauman Associates

ORDER

The prayer made in this writ petition is to direct the respondents 1 to 4 to revise the scale of pay of the petitioner on par with the teachers of the Government school, as fixed by the Sixth Pay Commission and One Man Commission and pay the salary with arrears, within a reasonable time to be fixed by this Court.

2.Today, when the matter was taken up for consideration, the learned counsel for the fourth respondent submitted that the issue involved herein is squarely covered by the decision rendered by the Full Bench of this Court in the Correspondent/Principal, Arokiamada Matriculation Higher Secondary School, Udumalai Road, Pollachi v. Tmt.T.Sorubarani (deceased) [2015 SCC Online Mad 12756: (2015) 6 CTC 129 (FB)], wherein, at paragraphs 26 to 28, it was held as under:

"26.Thus, the issue regarding claim of salary by unaided school staff on par with the Government School/Aided School staff is no longer res integra. In order to avoid prolixity, we have not reiterated the arguments and considerations which have already been raised before the earlier Division Benches. Also, since the learned Single Judge has gone into the judgments of the Hon'ble Supreme Court in detail, we have not repeated the observations here again.

27.This Court would also like to place on record that even the staff of the State Government are not paid salary on par with their counterparts of the Central Government. In such situation, the State Government cannot force the Management of a private school to pay salary to its staff on par with the staff of the State Government, which, in the considered opinion of this Court, will indirectly forcing the institution to surrender the fundamental right guaranteed under Article 30(1) of the Constitution of India.

28.It is settled law that writ of mandamus could be issued only if a public law element is involved. In the instant case, no public interest is involved. In view of the clear and unambiguous legal proposition set out by the Hon'ble Supreme Court in its various decisions and the fact that the Code is only an enabling provision and not statutory, there can be no manner of doubt that the private institutions are

at liberty to fix their own norms in administration with reasonable restrictions. As such, no direction can be issued against an unaided private institution to enforce the policy of the Government in its administration. The reference is answered accordingly."

The submission so made by the learned counsel for the fourth respondent has been fairly conceded by the learned Senior Counsel for the petitioner.

3.Following the aforesaid decision, this Writ Petition stands dismissed. No Costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

jas/rk

To

- 1.The Director of School Education cum,
Chairman of the Board of Matriculation Schools,
Chennai - 6.
- 2.The Inspector of Matriculation Schools,
Marketing Committee Building,
Ramanathapuram,
Coimbatore District.

+1cc to M/s.Sarvabhauman Associates, Advocate SR.No.2854

+1cc to Mr.M.Muthappan, Advocate SR.No.3467

+1cc to Government Pleader SR.No.3676

W.P.No.3741 of 2009

KS (CO)
GMY (06/03/2019)