

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 27.03.2019****Coram****The Hon'ble Mr.Justice R.Subbiah****and****The Hon'ble Mr.Justice Krishnan Ramasamy****Writ Petition No.30590 of 2018****and****W.M.P.No.35673 of 2018**

Geetha Matric Hr. Sec. School (0217519)

Represented by its Correspondent,

34, Sashachalla Street,

Saidapet, Chennai 15.

...Petitioner

Vs.

1.The State of Tamil Nadu,

Represented by the Additional

Chief Secretary,

Department of School Education,

Secretariat, Chennai 9.

2.Private Schools Fee Determination

Committee, DPI Campus,

College Road, Chennai 6.

...Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records of the case relating to the impugned order dated 31.01.2018 along with the concerned Review Order dated 26.06.2018 passed by the second respondent, and to quash the same and consequently, direct the second

respondent to allow or permit 34 teaching staff for the Petitioner- School while fixing the fee for the Academic Years 2017-18, 2018-19 and 2019-20.

For Petitioner : Mr.T.Ramesh

For Respondents : Mrs.V.Annalakshmi
Government Advocate
(Education Department)

ORDER

[Order was delivered by **Krishnan Ramasamy,J.,**]

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the case, relating to the impugned order, dated 31.01.2018 along with the connected Review Order, dated 26.06.2018 passed by the second respondent and to quash the same and consequently, to direct the second respondent to allow or permit 34 teaching staff for the petitioner-School, while fixing the fee for the Academic Years 2017 -18, 2018-19 and 2019 -20.

2. The case of the petitioner is as follows:-

i) The petitioner-School is an unaided Private School, run by a Private Trust, called "Geetha Educational and Charitable Trust". The petitioner-School was established in the year 1975. It became a Matriculation School with the First Batch of 10th Standard.

ii) The petitioner-School has strength of around 642 students catering to the needs of the population in and around Saidapet, Chennai. Many of the students are from very low income background and some of the students are first generation school goers. Infact, the petitioner-School monetarily supports such low income group students. The intention of the petitioner-School is to provide the best quality of education at the most affordable cost. The fee charged by the petitioner-School is reasonable one while comparing to other Private Schools in and around the area.

iii) Earlier, an enquiry was conducted by the second respondent, Private Schools Fee Determination Committee, (hereinafter, referred to as 'Committee') under Section 6(1) of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009. After enquiry, the second respondent-Committee, vide order dated 10.04.2013, has fixed the Fee structure to the petitioner-School. The second respondent permitted 30 teachers when the strength of the students was 653 in the year 2012-13. The said order, dated 10.04.2013 was applicable upto 2015-16.

iv) The strength of the students almost remained the same with the same number of sections even during the Academic years 2016-17 & 2017 – 18. A fresh enquiry was conducted by the second respondent-Committee for fixation of Fee for the subsequent Academic years 2017-18, 2018-19 and 2019 -20 and this petitioner also produced all the relevant records before the second respondent.

v) The second respondent passed an order, dated 30.01.2018 and the said order was communicated through e-mail and the hard copy of the order was not served. By virtue of the above said order, the second respondent permitted only 22 teaching staff as against 30 teaching staff already permitted by the second respondent, by order dated 10.04.2013.

vi) Hence, the petitioner made a representation dated 28.02.2018 to reconsider the order dated 30.01.2018, inter-alia stating that presently 34 teachers are working and allowing only 22 teachers for the School having 23 sections was practicably impossible for running the School, and infact, the actual number of teachers required to run the School is 34. The second respondent, vide review order dated 26.06.2018 permitted the petitioner-

School to engage the service of 23 teachers instead of 22. Aggrieved by the order, dated 30.01.2018 and the Review Order, dated 26.06.2018, the petitioner has filed this Writ Petition seeking to quash both such orders.

3. The learned counsel appearing for the petitioner submitted that at present, the strength of the students in the petitioner-School is 642, and there are 23 sections and each sections will have 8 periods to be conducted. Whereas, the second respondent-Committee has permitted only 23 teachers. In such case, all the teachers need to take 8 classes per day, which means that, without any break/interval, all the teachers will have to take class, which is highly impossible, because, for every two hours, the teachers need an half-an hour or one hour break, utmost, they can take 5 to 6 classes per day. The petitioner needs 34 teachers for conducting 23 classes. In this regard, the petitioner has made a detailed representation. However, the request of the petitioner has not been considered and the second respondent has decided approximately, without taking into consideration of the fact that, for a School consisting of 642 students and 23 sections, the same will require atleast 32 teachers to cover all the periods. The learned counsel also referred to the earlier order passed by the second respondent-Committee for

the academic year 2012-13, dated 10.04.2013, whereby, the second respondent-Committee permitted the petitioner-School to have 30 teachers when the strength of students was around 653.

4. The learned counsel further submitted that, in the present case, upto 10th standard, the ratio of the students and teachers can be maintained at the same upto primary level, but, in the case of 11th and 12th, the same ratio cannot be maintained since there are different types of groups and each subjects like Chemistry, Commerce, Biology, Computer Science, Maths etc., requires atleast one specialized teacher for imparting good education. In such an event, the petitioner needs more number of Teachers. Say for example, if the strength of the students in 11th standard is only 40, obviously, there would be 4 groups with different subjects, which requires 4 specialized teachers. In such an event, the ratio of one teacher for 40 students is not applicable.

5. Therefore, the learned counsel submitted that the impugned orders dated 31.01.2018 and 26.06.2018, passed by the second respondent-Committee without considering all these aspects are liable to be set aside

and the second respondent be directed to permit the petitioner-School to have 34 teachers and if possible, adequate number of teachers for the Academic years 2017-18, 2018-19 and 2019 -20.

6. Per contra, the learned Government Advocate appearing for the respondents has filed reply/counter affidavit to the rejoinder filed by the petitioner, and made his submission that the petitioner has furnished the details relating to the qualification of 34 teachers, and out of which, 10 teachers were unqualified. Hence, the second respondent-Committee allowed 22 teachers to be engaged by the petitioner-School and fixed the fee for the petitioner-School as per the ratio and guidelines laid/formed by the Hon'ble Division Bench of this Court, in the case of **Lakshmi Matriculation School Vs. State of Tamil Nadu, dated 03.05.2012, in W.P.Nos.8489, 14143, etc., of 2011 (batch)** and the unqualified 10 teachers have not been taken into consideration.

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7. The learned Government Advocate further submitted that when the petitioner-School expressed their grievance to increase the strength of the teachers, the second respondent, vide Review Order dated 26.06.2018

permitted the petitioner-School to engage the service of 23 teachers instead of 22, initially fixed and the second respondent-Committee has also taken into consideration one more important aspect that, since the petitioner-School is functioning for the purpose of providing good education to the students belonging to low income background, it is only with an intention to safeguard the interest of the parents while fixing the fee, the second respondent-Committee has restricted the number of teachers, and the same is in consonance with the ratio laid down by the Hon'ble Division Bench of this Court, in the decision referred to supra. Therefore, the learned Government Advocate submitted that there is no illegality in the order passed by the second respondent-Committee and hence, prayed for dismissal of the Writ Petition.

8. In reply to the above said submission, the learned counsel for the petitioner submitted that all the left out 10 teachers are qualified teachers. In support of such contention, the learned counsel has drawn our attention to the circular sent issued by the Directorate of Matriculation School, in circular dated 22.08.2017 intimating that the non B.Ed./ D.Ted. /D.El.Ed teachers of Matriculation School have to join the two years course of

B.Ed/DTED and D.El.Ed conducted by the National Institute of Open Schooling, as recommended by the State Government during the years 2017-19, pursuant to which, the said 10 teachers have already joined the course in the year 2017 and completed the said course by the end of this month, i.e. March, 2019. The learned counsel also furnished all the particulars about the completion of the two years course by the left out 10 teacher in the form of affidavit with additional typed-set of papers, at Page Nos.15 to 30. Therefore, the learned counsel pleaded that 34 teachers are required for running the School effectively.

9. Heard both sides and perused the materials available on records. At present, there are 642 students studying in the petitioner-School and 23 sections and each section will have 8 periods. In case, if only 23 teachers are permitted to be engaged by the petitioner-School, then, all the teachers should continuously take classes for all the 8 periods in a day, without any break. If the same is allowed, naturally, the energy of the teachers would get exhausted and they will get tired, and atleast, they should be given an half an hour or one hour break for every two periods. That is taken into consideration, then, the plea of the petitioner should be accepted. Though

the second respondent rejected the requisition of the petitioner-School to have 34 teachers on the ground that out of 34 teachers, 10 teachers are unqualified and hence, they have not been taken into consideration, we would like to point out, if the second respondent-Committee felt that 10 teachers are not qualified, without passing any such order, removing the 10 teachers from the consideration list, they ought to have asked the petitioner-School to recruit for ten other qualified teachers and given an intimation in this regard. However, the second respondent-Committee passed the impugned order, fixing the strength of the teachers to the petitioner-School at 23, which is inadequate, for effective functioning of the School.

10. Further, taking into consideration of the fact that the said 10 teachers, who were found to be unqualified by the second respondent-Committee, have got qualified by this month-end, i.e., March, 2019, as they have completed two years course of B.Ed., and D.El.Ed conducted by the National Institute of Open Schooling, as recommended by the State Government during the years 2017 -19, and to prove the same, the learned counsel for the petitioner also furnished all the particulars about the completion of two years course in the form of additional typed-set of papers

along with an affidavit, we deem it appropriate to remand the matter to the second respondent-Committee for reconsideration of the petitioner's case by permitting the petitioner to file fresh representation.

11. Accordingly, this Writ Petition is allowed, the impugned order is set aside and the matter is remanded to the second respondent-Committee for fresh consideration. The petitioner is also directed to file fresh representation to the second respondent-Committee along with supportive documents with regard to the qualification of the 10 teachers, who were initially left out, by the second respondent-Committee, but subsequently got qualified, within a period of two weeks from the date of receipt of a copy of this order. As and when, such a representation is made, the second respondent-Committee shall consider the same and pass appropriate orders by fixing additional number of teachers, as per the strength of students in the petitioner-School, at the earliest. The second respondent-Committee shall also take into consideration before passing orders that the petitioner-School is finding difficult to run the School with the minimum number of sanctioned teachers, as there are 23 sections in the School and each sections will have 8 periods to be conducted and adequate number of specialized

teachers are required for the 11th and 12th standards. The second respondent-Committee also shall bear in mind that by providing sufficient number of teachers would not only help the petitioner in running the School effectively but also improves the standard of education to the students.

12. In the result, the Writ Petition stands allowed, as indicated above.

No costs.

[R.P.S.J.,]

[K.R.J.,]

27.03.2019

Index : yes/no
Speaking Order/Non speaking
vkr

To

1. The State of Tamil Nadu,
Represented by the Additional
Chief Secretary,
Department of School Education,
Secretariat, Chennai 9.

2. Private Schools Fee Determination
Committee, DPI Campus,
College Road,
Chennai 6.

**R.Subbiah,J.,
&
Krishnan Ramasamy, J.,**

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Writ Petition No.30590 of 2018

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