



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Eighth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM
and
The Hon`ble Mrs.Justice R.THARANI

CMP(MD) No.4517 of 2019

IN

WA(MD) No.441 of 2019

THE SECRETARY,
E.V.A.VALLIMUTHU HIGH SCHOOL,
VELAYUTHAPURAM, KOVILPATTI,
TUTICORIN DISTRICT 628 501.

... PETITIONER/ RESPONDENT

Vs

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

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

3 THE CHIEF EDUCATIONAL OFFICER,
THOOTHUKUDI DISTRICT, THOOTHUKUDI.

4 THE DISTRICT EDUCATIONAL OFFICER,
KOVILPATTI, THOOTHUKUDI DISTRICT.

... RESPONDENTS/ APPELLANTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue suitable Ad INTERIM ORDERS directing the respondents/ appellants to accord permission to the petitioner/ respondent school to fill up the vacant post of Pre-Vocational Instructor (Sewing) and to disburse the grant-in-aid towards the salary, pending disposal of the WA(MD)No.441 of 2019.

Prayer in WA(MD) . 441/ 2019 :

To set aside the order dated 12.09.2018 made in W.P.(MD) No.10158 of 2018 on the file of this Honourable Court.

Prayer in W.P.(MD)No.10158 of 2018:-

<https://hcservices.ecourts.gov.in/hcservices/>
Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents to give permission to the petitioner's school to fill up the vacant post of



Pre-Vocational Instructor (weaving) by converting the said post into Pre-Vocational Instructor (sewing).

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.ISSAC MOHANLAL, Senior Counsel for M/S.ISAAC CHAMBERS, Advocate for the petitioner and of Mrs.S.SRIMATHY, Special Government Pleader on behalf of the Respondents, the court made the following order:-

Reserved on: 29.04.2019
Delivered on: 08.05.2019

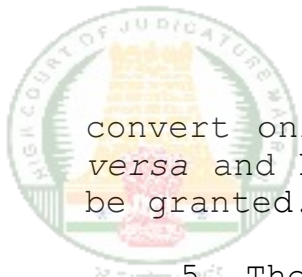
(Order of the Court was made by **K.KALYANASUNDARAM,J.**)

The prayer in the petition is to issue a direction to the respondents to accord permission to the petitioner School to fill up the vacant post of Pre-Vocational Instructor (Sewing) and to disburse the grant-in-aid towards the salary, pending disposal of the writ appeal.

2. W.P.(MD).No.10158 of 2018 was filed by the petitioner for issuance of writ of Mandamus directing the respondents to give permission to the petitioner School to fill up the vacant post of Pre-Vocational Instructor (Weaving) by converting the said post into Pre-Vocational Instructor (Sewing).

3. The case of the petitioner is that the petitioner School is a Recognised Private Aided School and the same was established in the year 1956. Originally it was a Primary School, however in the year 1964 and in 1994 it was upgraded as Middle School and High School respectively. The petitioner claims that the School is sanctioned with 3 B.T. Assistants and one among them is Pre-Vocational Instructor and one A.Rajendran was appointed as a Weaving Instructor in the post of Pre-Vocational Instructor. While so, the Parent - Teacher Association had been requesting the petitioner School to convert the post of Weaving into Sewing and a resolution was also passed. The said A.Rajendran retired on 31.10.2017, on attaining the age of superannuation and hence, the School sent a representation dated 17.07.2017 seeking permission to convert the post of Weaving into Sewing. Even though the Pre-Vocational Instructor post fell vacant on 01.11.2017, the representation of the petitioner for conversion was not considered and the post also was not filled up and hence, the writ petition was filed.

4. The respondents contended before the learned single Judge that the strength of the School is only 146 and as per G.O.(Ms.).No.132 School Education, dated 27.04.1998 and G.O.(Ms.).No.104, School Education, dated 12.07.2002, there should be at least 250 students in a School to fill up the post of Vocational Instructor. They also relied on G.O.(Ms.).No.39, School Education, dated 21.03.2003, for the purpose that the school can be permitted to



convert only a Music Teacher post as a Craft Teacher post or vice versa and hence, the conversion sought for by the petitioner cannot be granted.

5. The learned single Judge, by following the decisions of the Division Bench of this Court in W.A.(MD).No.1207 of 2016, dated 23.08.2016 and W.A.(MD).Nos.22 and 23 of 2017 batch., held that the conditions stipulated in G.O.(Ms.).No.39, dated 21.03.2003, should be read down to mean that the predominant aspect, which has to be considered is the need for the particular branch of the Vocational Instructor and that it should be decided by the institution considering the demand of the students and parents and eventually allowed the writ petition.

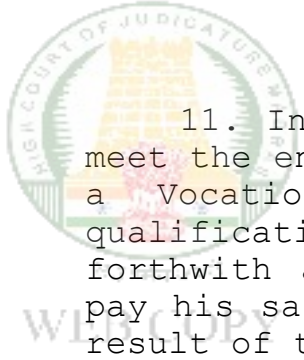
6. Mr.Isaac Mohanlal, learned Senior counsel for the petitioner, reiterated the case of the petitioner and further submitted that the decisions relied on by the learned single Judge was also confirmed by the Hon'ble Supreme Court in S.L.P.No.9829 of 2019, dated 01.04.2019. He added that providing vocational education to the students, who hail from the poor economic background would provide them with some self employment opportunities for their sustenance. Considering the need of the School to have Sewing Instructor, the petitioner submitted necessary proposal to the respondents, but the respondents have not given any permission to fill up the post and hence, the students are ultimately suffering.

7. It is the submission of the learned Senior counsel that if suitable orders are not issued permitting the petitioner to fill up the post, even for the next academic year, the students would lose their opportunity to join the course.

8. Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents would argue that it is the policy decision of the Government not to grant any permission for conversion of the course, which cannot be questioned by the petitioner in a writ proceedings and that one more Special Leave Petition filed by the respondents is pending before the Hon'ble Apex Court.

9. We have given our anxious consideration to the rival submissions and perused the materials available on record.

10. In the case on hand, it is an admitted fact that the petitioner School is a Private Aided School and a post of one Vocational Instructor is sanctioned by the Government and the Vocational Instructor Mr.A.Rajendran retired on 31.10.2017. The Division Bench in a batch of writ petitions in W.P.(MD).No.23 of 2017, and another Division Bench in W.A.(MD).No.421 of 2017, have taken a consistent view that the conversion sought for by the petitioner can be granted after considering the G.O.(Ms).No.39, School Education, dated 21.03.2003.



11. In the light of the above undisputed facts and in order to meet the ends of justice, we hereby permit the petitioner to appoint a Vocational Instructor (Sewing), who shall have necessary qualifications. The appointment shall be informed to the respondents forthwith and on such compliance, the respondents are directed to pay his salary without fail. However, this order is subject to the result of the writ appeal.

12. Accordingly, the petition is ordered. No costs.

sd/-
08/05/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SECRETARY,
THE STATE OF TAMIL NADU
DEPARTMENT OF SCHOOL EDUCATION,
FORT ST.GEORGE, CHENNAI-600 009.
- 2 THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, CHENNAI-600 006.
- 3 THE CHIEF EDUCATIONAL OFFICER,
THOOTHUKUDI DISTRICT, THOOTHUKUDI.
- 4 THE DISTRICT EDUCATIONAL OFFICER,
KOVILPATTI, THOOTHUKUDI DISTRICT.

+1. C.C. to M/S.ISAAC CHAMBERS Advocate SR.No.8168
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.8242

ORDER
IN
CMP (MD) No.4517 of 2019
IN
WA (MD) No.441 of 2019
Date :08/05/2019

MS/JC/SAR-2/13.05.2019/4P.7C