



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) .No.15715 of 2013

and

W.P. (MD) Nos.1 to 3 of 2013

WEB COPY

The Corporate Manager,
CSI Corporate Schools,
CSI Diocese of Kanyakumari,
No.71A, Dennis Street,
Nagercoil - 629 001.

.. Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai - 600 006.

2.The Chief Educational Officer,
Kanyakumari District,
Nagercoil - 629 001.

3.The District Educational Officer,
Nagercoil - 629 001.
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the second respondent Chief Educational Officer in Mu.Mu.No.7739/Aa1/2012, dated 31.01.2013 and consequential proceedings issued by the first respondent Director of School Education in Na.Ka.No.77423/W5/E2/2012, dated 17.01.2013, quash the same insofar as it renders that one post of PG Assistant in English is not sanctioned to the petitioner school, namely, Ringle Thube Memorial Higher Secondary School, Mylaudy, Kanyakumari District and resume the same and further direct the third respondent District Educational Officer to approve the appointment of Tmt.G.Salini as PG Assistant in English with effect from 25.02.2013 and disburse the grant-in-aid towards her salary and allowances.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.S.Xavier Rajini

For Respondents : Mr.N.Shanmuga Selvan
Additional Government Pleader



ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the second respondent dated 31.01.2013 and the consequential proceedings of the first respondent/Director of School Education, dated 17.01.2013 insofar as it renders one post of P.G. Assistant English as not sanctioned to the petitioner's school and further to direct the third respondent to approve the appointment of Tmt.G.Salini as P.G. Assistant in English with effect from 25.02.2013 and to disburse the grant-in-aid that is salary to the Teacher.

2.The petitioner is a minority institution running numerous educational institutions in the District of Kanyakumari. The petitioner is running about 25 Matriculation Schools, two nursing colleges, one nursing school, 17 Higher Secondary Schools and 6 Elementary Schools. It is admitted by the petitioner that all the schools run by the petitioner are administered as a single unit under a Corporate set up and that the teachers and staff are appointed by the Management and posted to various schools according to the need and availability of posts.

3.One among the schools run by the petitioner management known as Ringle Thube Memorial Higher Secondary School, Mylaudy in Kanyakumari District is also a recognised aided minority institution. The said school was established as a primary school in the year 1814 and later on upgraded as Middle School in the year 1904 and as High School in the year 1963. It was later upgraded as Higher Secondary School in the year 1978. It is stated by the petitioner that in the school, the students strength was 708 when the impugned order was passed and that 21 teaching posts were sanctioned. The Government announced revised norms on teacher-student ratio vide G.O.Ms.No.525, School Education Department, dated 29.12.1997 and this Government Order came into effect from 01.06.1998. As per G.O.Ms.No.525, School Education Department, dated 29.12.1997, the school concerned, which has five groups, is entitled to have at least two teachers to teach English. It is further represented that as per G.O.Ms.No.525, School Education Department, dated 29.12.1997, for the schools having two groups, 6 Post Graduate Assistants and one Post Graduate Assistant for English and another one Post Graduate Assistant for Tamil can be appointed. Even though the petitioner is entitled to have two Post Graduate Assistants for English and one Post Graduate Teacher for Tamil, the impugned order has been passed indicating that one post of Post Graduate Teacher in English is abolished. The impugned order is contrary to the Government Order vide G.O.Ms.No.525, School Education Department, dated 29.12.1997. Since the staff fixation is in violation of the norms fixed by the Government vide G.O.Ms.No.525, School Education



Department, dated 29.12.1997, the learned Counsel appearing for the petitioner submitted that the impugned order directing surrender of one post of P.G. Assistant in English even before the fixation of staff is invalid. The learned Counsel for the petitioner submitted that the impugned order is also arbitrary. When the petitioner was eligible to appoint at least two Post Graduate Assistants in English and only one post was sanctioned at the relevant point of time, the learned Counsel for the petitioner submitted that two posts of Post Graduate Assistant in English is very much essential to the school concerned and that the withdrawal of one post of Post Graduate Assistant in English in the school would seriously jeopardise the standard of education and it would be against the interest of students.

4.The third respondent has filed counter. In the counter, it is stated that the petitioner school was sanctioned 8 posts of Post Graduate Assistants for the year 2011-2012 and that out of 8 posts, 6 Post Graduate Assistants were allotted for teaching other subjects and one Post Graduate Assistant was allotted each for the subject Tamil as well as English. It is the contention of the third respondent that one Tmt.J.Annie Mary was working as Post Graduate Assistant (English) in the school was declared surplus in the staff fixation for the year 2011-2012. It is submitted that though one post of Post Graduate Assistant was declared as surplus in the staff fixation for the year 2011- 2012 itself, the petitioner did not take any steps to make a representation to the second respondent addressing this issue. In such circumstances, it is suggested that the staff fixation for the year 2012-2013 would indicate that there is no vacancy in the post of Post Graduate Assistant (English). It is also contended by the third respondent that the petitioner very well knew that the Post Graduate Assistant post was declared as surplus as per the staff fixation for the year 2011-2012.

5.The learned Additional Government Pleader appearing for the respondents also submitted that the Teacher who was earlier holding the post of Post Graduate Assistant (English) was transferred to some other school so as to accommodate another teacher. It is submitted that the teacher, who was transferred is qualified to be appointed to fill up the post of Post Graduate Assistant in English and hence, to appoint another person in the same post is impermissible. This contention of the learned Additional Government Pleader though appears to make sense, having regard to the number of groups this school has got, this Court is unable to agree with the submission of the learned Additional Government Pleader.

6.As pointed out by the learned Counsel for the petitioner, as per G.O.Ms.No.525, School Education Department, dated 29.12.1997,



the petitioner's school is entitled to have two posts of Post Graduate Assistant - one in English and another in Tamil. Since the petitioner has got five groups, it is very difficult to manage or to cover the syllabus with the single teacher for language. After transfer of one of the incumbent to another school, it is not possible to derive that the petitioner had surplus as per G.O.Ms.No.525 even on the date when the teacher was transferred to some other school. The impugned order is without even issuing a notice as to why the staff fixation was necessitated and how one Post Graduate Assistant in English was not shown. When Smt.G.Salini was appointed to the post of Post Graduate Assistant in English on 25.02.2013 in the petitioner's school, the said appointment is perfectly in order as the petitioner's school is eligible to have one Post Graduate Assistant in English, especially when it is admitted that the school concerned has got five different groups. Having regard to the fact that there is no surplus teacher, the stand of the respondents to hold that the petitioner is having surplus teacher. Hence, the impugned order is arbitrary. As a result, this Writ Petition is allowed. The impugned order passed by the second respondent dated 31.01.2013 and the consequential proceedings of the first respondent dated 17.01.2013 are quashed. The second respondent is directed to approve the appoint of Smt.G.Salini as Post Graduate Assistant as per the petitioner's proposal and to disburse the grant-in-aid i.e., salary to the teacher with effect from the date of appointment. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

SRM

To

1.The Director of School Education,
College Road, Chennai - 600 006.

2.The Chief Educational Officer,
Kanyakumari District,
Nagercoil - 629 001.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The District Educational Officer,
Nagercoil - 629 001.
Kanyakumari District.

+1 CC to SPL GP (SR-100899[F] dated 25/11/2019)

+1 CC to MR.XAVIER RAJINI, Advocate (SR-100484[F] dated
22/11/2019)

ORDER MADE IN
W.P. (MD) No.15715 of 2013
21.11.2019

_KM/ (21.02.2020) 5P 6C