



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.12371 of 2014

and

W.M.P(MD)Nos.2 & 3 of 2014

The Correspondent,
De-Britto Higher Secondary School,
Devakottai - 630 303,
Sivagangai District.

... Petitioner

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 - 600 009.
- 3.The Chief Educational Officer,
Sivagangai,
Sivagangai District.
- 4.The District Educational Officer,
Devakottai,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the third respondent CEO in Na.Ka.No.4989/Aa3/2011 dated 16.08.2011 and the consequential proceedings issued by the fourth respondent DEO in O.Mu.No. 5126/Aa2/11 dated 09.01.2012, quash the same insofar as they rendered surplus one post of Physical Education Teacher in the petitioner's School and thereby refused approval to the appointment of S.Arulanandam as the third Physical Education Teacher and further direct the fourth respondent DEO to approve forthwith the appointment of S.Arulanandam as Physical Education Teacher with effect from 15.06.2011 with all attendant benefits including salary and allowances from the said date.



For Petitioner : M/s.Issac Mohanlal
Senior Counsel

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

The order of rejection, dated 16.08.2011 and proceedings of the Chief Educational Officer returning the proposal on 09.01.2012 are under challenge in the present Writ Petition.

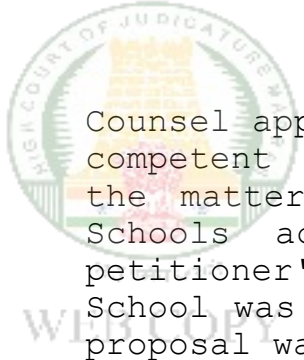
2.The learned Senior Counsel appearing on behalf of the writ petitioner's School made a submission that the writ petitioner's School is a Minority Educational Institution and owned and administered by the registered Society, namely, the Society of Jesus, Dindigul. The writ petitioner's School has been recognised by the Government under the statute.

3.The grievances of the writ petitioner's School is that 1248 students are now studying in the School. There are 57 teachers working in the School under the aided sections viz., 1 Headmaster, 16 Post Graduate Assistants, 1 Physical Director (Grade-I), 1 Vocational Instructor (Grade-I), 15 BT Assistants, 6 Tamil Pandits, 5 Secondary Grade B.T Assistants, 5 Secondary Grade Teachers, 3 Physical Educational Teachers, 2 Drawing Teachers and 2 Vocational Instructors. There are 13 non-teaching staff in the aided sections are also working viz., 2 Junior Assistant, 1 Record Clerk, 1 Lab Assistant, 1 Library Assistant, 2 Office Assistant, 1 Gardener, 2 Watchman, 1 Sweeper, 1 Scavenger and 1 Waterman.

4.Pursuant to the orders issued by the Government in G.O.Ms.No.525, School Education, dated 29.12.1997 with effect from 01.06.1998, the ratio of one teacher for every 40 students was adopted in principle. Separate norms were prescribed for different stages of education. The aforesaid Physical Education Teachers are concerned, separate norms and ratio are fixed by the Government.

5.The learned Senior Counsel appearing for the writ petitioner is of the opinion that the writ petitioner's School is entitled for three posts of Physical Education Teachers and one post of Physical Education Director, as per the ratio fixed by the Government. The said posts were sanctioned by the competent Educational Authorities, however, the approval of appointments are yet to be granted by the Authorities, in view of the fact that the respondents are disagreeing with the proposal and returned the same. The said order of return is under challenge in the present Writ Petition.

6.The learned Special Government Pleader appearing on behalf of the respondents opposed the contentions made by the learned Senior



Counsel appearing for the petitioner by stating that the authorities competent are following the Government guidelines scrupulously in the matter of considering the proposal submitted by the various Schools across the State of Tamil Nadu. Asfar as the writ petitioner's School is concerned, the proposal submitted by the School was considered and based on the students ratio strength, the proposal was returned. Thus, there is no infirmity as such.

7.The Government Orders and letters and Circulars, which are relevant for the purpose of considering the proposal, are extracted hereunder:-

"1.G.O.Ms.No.525, Education Department, dated 29.12.1997.

2.Right of Children to Free and Compulsory Education Act, 2009.

3.G.O.Ms.No.231, Education Department, dated 11.08.2010.

4.G.O.Ms.No.266, Education Department, dated 06.07.2012

5.Ministry of Human Resource Development D.O. Letter, dated 03.08.2012."

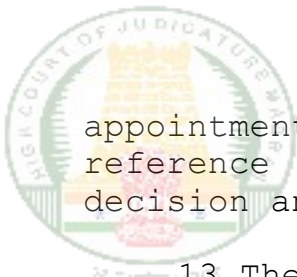
8.In addition to the above said norms, Number of periods of Classes IX and X were allocated to P.G. Assistants handling XI and XII Classes also ie., if the number of period allocation to the particular subject P.G Assistant is lesser than the maximum 28 periods, then the particular subject P.G Assistant should handle the periods for the Classes IX and X. Each subject teachers is required to teach atleast 28 periods in his subject per week. The revised staff fixation exercise was conducted on 26.04.2018 and 27.04.2018 for 2 days with all District Chief Educational Office staff based on the abovesaid revised norms.

9.The learned Senior Counsel appearing on behalf of the writ petitioner contended that the assessments are made mostly during the month of August of the Academic Year concerned and accordingly, decisions are taken for the purpose of sanctioning the staff strength.

10.Under these circumstances, this Court is of the considered opinion that a review is to be undertaken by the competent authorities for the purpose of ascertaining the students teachers ratio in the writ petitioner's School and accordingly, process the proposals sent by the School for grant of approval of appointments.

11.The learned Senior Counsel appearing for the petitioner is of the opinion that the proposals were sent during the Year 2011 and the entire inspection reports ought to be considered.

12.This Court is of the considered opinion that the authorities competent, in the event of receipt of such proposal for approval of



appointment, are bound to consider all the relevant documents with reference to the Government Order in force and accordingly, take a decision and pass orders.

13. The grievances of the writ petitioner's School is that one Teacher was appointed as a Physical Education Teacher in the year 2011 and he was unable to get salary and suffered a lot.

14. However, this Court is of the considered opinion that the facts and circumstances in entirety ought to be considered by the competent authorities before according approval of appointment or fixing the staff strength. Once the approval of appointment is confirmed by the competent authorities, salary is being paid from the tax payers money. The authorities are to be very cautious while granting approval of appointment or fixing the staff strength as a matter of fact in any other School.

15. Abundant caution is required before issuing any such approval or recognition or fixation of staff strength. Any irregularity or illegality in the matter of grant of approval of appointment are to be viewed seriously. The grant of approval of appointment has got monetary implication in respect of the State Exchequer. Thus, the process of grant of approval of appointment and fixation of staff strength is to be done strictly in accordance with the Government Orders as well as the Rules in force.

16. In the present case, the grievances of the writ petitioner's School are that sufficient steps were not taken for grant of approval of appointment in respect of one teacher. However, the respondents are bound to initiate steps for ascertaining the staff strength presently available with reference to the students teachers ratio and accordingly, process the application and pass orders strictly in accordance with the Government guidelines as well as the Rules in force.

17. This being the factum of the case, the respondents are directed to review the entire facts and circumstances prevailing in the writ petitioner's School with reference to the staff strength as well as the students teachers ratio and take appropriate decision by following the Government orders in force as well as the Rules and Statute. If at all any appointments made long back is in accordance with the Statute and Rules in force, all such cases are to be considered with reference to the Rules in force and based on the students strength which was prevailing during the relevant point of time. The said exercise is directed to be done within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioner's School is also at liberty to submit a fresh proposal, if any, along with all the documents, enabling the competent Educational Authorities to scrutinise the same with reference to the Rules in force.



18.The Writ Petition stands disposed of. No costs.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (C.O.)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Secretary,
Rep. by the State of Tamil Nadu,
Department of School Education,
Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 009.

3.The Chief Educational Officer,
Sivagangai,
Sivagangai District.

4.The District Educational Officer,
Devakottai,
Sivagangai District.

+One cc to M/s.Isaac Chamber, Advocate, SR.No.73854

+One cc to The Special Government Pleader, SR.No.73970

W.P (MD) No.12371 of 2014
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RL/18.07.2019/5P/7C