



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2019

CORAM :

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)Nos.23742 to 23744 of 2019

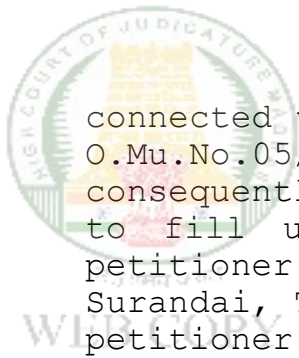
Ratna Middle School,
E-Meenakshipuram - 627 859,
V.K.Pudur Taluk,
Tirunelveli District,
Rep. by its Secretary. ... Petitioner in
all the W.Ps.

vs.

- 1.The Joint Director of School Education (Aided Schools),
College Road,
Chennai - 06.
- 2.The Chief Educational Officer,
Tirunelveli District.
- 3.The District Educational Officer,
Tenkasi,
Tirunelveli District.
- 4.The Block Educational Officer,
Keelapavoor Block,
Pavoorchataram,
Tirunelveli District. ... Respondents in
all the W.Ps.

Prayer in W.P. (MD)No.23742 of 2019:- Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned proceedings of the fourth respondent in Aa-Thi-Mu No.310/Aa1/2019, dated 28.09.2019, quash the same and consequently, to direct the respondents 3 and 4 to accord permission to fill up the vacant post of P.V.(Sewing) in the petitioner School, viz., Ratna Middle School, E-Meenakshipuram, Surandai, Tirunelveli District, as per the proposal submitted by the petitioner School, dated 14.02.2019.

Prayer in W.P. (MD)No.23743 of 2019:- Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the entire records



connected with the impugned proceedings of the fourth respondent in O.Mu.No.05/Aa1/2019, dated 14.10.2019, quash the same and consequently, to direct the respondents 3 and 4 to accord permission to fill up the vacant post of Secondary Grade Teacher in the petitioner School, viz., Ratna Middle School, E-Meenakshipuram, Surandai, Tirunelveli District, as per the proposal submitted by the petitioner School, dated 02.01.2019.

Prayer in W.P. (MD)No.23744 of 2019:- Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned proceedings of the fourth respondent in Aa-Thi-Mu No.309/Aa1/2019, dated 28.09.2019, quash the same and consequently, to direct the respondents 3 and 4 to accord permission to fill up the vacant post of B.T. (Maths) by upgrading the vacant post of Secondary Grade Teacher as per G.O.Ms.No.144, dated 04.07.2008, in the petitioner School, viz., Ratna Middle School, E-Meenakshipuram, Surandai, Tirunelveli District, as per the proposal submitted by the petitioner School, dated 14.02.2019.

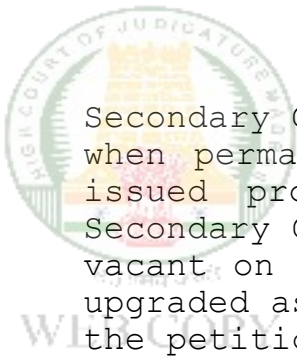
For Petitioner : Mr.K.K.Kannan
(in all the W.Ps.)

For Respondents : Mr.A.Thiagarajan
(in all the W.Ps.) Government Advocate

COMMON ORDER

These Writ Petitions have been filed seeking to quash the impugned proceedings of the fourth respondent in Aa-Thi-Mu No.310/Aa1/2019, dated 28.09.2019, O.Mu.No.05/Aa1/2019, dated 14.10.2019 and Aa-Thi-Mu No.310/Aa1/2019, dated 28.09.2019 respectively and consequential direction to the respondents 3 and 4 to accord permission to fill up the vacant posts of P.V. Teacher (Sewing), Secondary Grade Teacher and B.T. Assistant (Maths), as per the proposals submitted by the petitioner School, dated 14.02.2019, 02.01.2019 and 14.02.2019 respectively.

2.According to the petitioner School, the School was started in the year 1905 and there are 149 students studying from Class I to Class V and 71 students are studying from Class VI to Class VIII. The total Students' strength of the School is 220. There are 14 teacher posts were sanctioned in the petitioner School, which includes one post of Middle School Headmaster, four Secondary Grade Teachers for Classes VI to VIII, eight Secondary Grade Teachers for Primary and one P.V. Teacher (Sewing). At present, there is no surplus teacher in the School. Now, there are three teacher posts are vacant due to retirement of erstwhile teachers. Therefore, the School Management decided to fill up the said three vacancies in accordance with law. While so, the Department of School Education issued G.O.(Ms) No.144, dated 04.07.2008, for upgradation of



Secondary Grade Teacher post in the Middle School as B.T. Assistant, when permanent vacancies arise. The Director of School Education issued proceedings dated 11.08.2008 to that effect. Since the Secondary Grade Teacher post in the petitioner School fell permanent vacant on the retirement of Pandiyarani on 31.01.2019, the post is upgraded as B.T. Assistant as per the said Government Order. Hence, the petitioner School made representation to obtain prior permission to fill up the said three vacancies. However, the fourth respondent, vide proceedings dated 28.09.2019, rejected the request of the petitioner School with regard to filling up the posts of P.V. Teacher (Sewing) and B.T. Assistant (Maths), directing the petitioner School to submit the proposal after getting the order of staff fixation. Insofar as the post of Secondary Grade Teacher is concerned, the fourth respondent, vide proceedings dated 14.10.2019, returned the proposal directing the petitioner School to submit the proposal after completion of deployment process as per G.O.(Ms) No.165, School Education Department, dated 17.09.2019.

3.The learned counsel appearing for the petitioner submitted that the impugned proceedings of the fourth respondent are without jurisdiction, since the third respondent is the competent authority. Further, the posts were vacant from 01.06.2012, 01.06.2018 and 31.01.2019 respectively, which is clearly mentioned in the latest staff fixation order dated 28.06.2019. It is the duty of the respondents 3 and 4 to prepare staff fixation order, but they failed to prepare the same to the petitioner School. Further, the learned counsel appearing for the petitioner submitted that a Division Bench of this Court, vide judgment dated 20.09.2019, in W.A.(MD)No.76 of 2019 etc. batch [The Secretary to Government, School Education Department and others Vs. Iruthaya Amali and another], suspended the operation of G.O.(Ms)No.165, School Education Department, dated 17.09.2019, until further orders. Therefore, the learned counsel prayed for allowing the Writ Petitions.

4.I have heard the learned counsel for the parties and perused the materials on record.

5.From the materials on record, it is seen that the posts of P.V. Teacher (Sewing), Secondary Grade Teacher and B.T. Assistant (Maths) were vacant from 01.06.2012, 01.06.2018 and 31.01.2019 respectively, which has been clearly mentioned in the staff fixation order dated 28.06.2019. Further, a Division Bench of this Court, vide judgment dated 20.09.2019, in W.A.(MD)No.76 of 2019 etc. batch, suspended the operation of G.O.(Ms)No.165, School Education Department, dated 17.09.2019, until further orders, in which certain guidelines were issued for staff fixation. Therefore, the impugned rejection orders of the fourth respondent, dated 28.09.2019, 14.10.2019 and 28.09.2019, are liable to be set aside, accordingly, set aside. The petitioner School is directed to re-submit the proposals within a period of two weeks from the date of receipt of a copy of the order of the court. On such re-representation, the respondents 3 and



4 are directed to pass orders thereon in accordance with law, within a period of four weeks thereafter.

6. With the above direction, these Writ Petitions are disposed of. No costs.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Joint Director of School Education (Aided Schools),
College Road,
Chennai - 06.

2. The Chief Educational Officer,
Tirunelveli District.

3. The District Educational Officer,
Tenkasi,
Tirunelveli District.

4. The Block Educational Officer,
Keelapavoor Block,
Pavoorchataram,
Tirunelveli District.

+3 CC to M/s.K.K. KANNAN, Advocate (SR-99285, 99286 & 99287[F]
dated 19/11/2019)

+1 CC to M/s.Special Govt. Pleader (SR-99558[F] dated 19/11/2019)

W.P.(MD)Nos.23742 to 23744 of 2019
18.11.2019

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