



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.10334 of 2012

WEB COPY

St.Mary's Boys Higher Secondary School,
Rep. by its Correspondent Br.S.Amalraj,
Millarpuram,
Tuticorin-628 008.

... Petitioner

-Vs-

1.Director of School Education,
Chennai-6.

2.Chief Educational Officer,
Tuticorin, Tuticorin District.

3.The District Educational Officer,
Tuticorin, Tuticorin District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in his proceedings Mu.Mu.No.93492/W5/E2/2011, dated 26.06.2012 and quash the same and direct the respondents to upgrade one post of physical Director Grade-II as Physical Director Grade-I with effect from 02.06.2005 so as to enable the petitioner to upgrade Mr.S.Kulanthai as Physical Director Grade-I to the petitioner school.

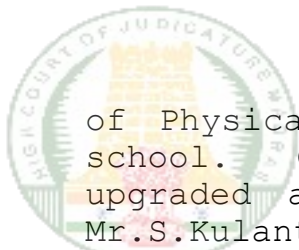
For Petitioner : Mr.V.Panneer Selvam
M/s.C.S.Associates

For Respondents: Mr.J.Gunaseelanmuthiah
Additional Government Pleader

ORDER

The writ petition is filed by the correspondent of the school to quash the order of rejection, dated 26.06.2012 and direct the respondents to upgrade one post of Physical Director Grade-II as Physical Director Grade-I with effect from 02.06.2005 so as to enable the petitioner to upgrade Mr.S.Kulanthai as Physical Director Grade-I to the petitioner school.

2.The learned counsel for the petitioner has stated that the petitioner school was started in the year 1969 as High School and thereafter upgraded as Higher Secondary School in 1979. Two posts



of Physical Education Teacher were sanctioned for the petitioner school. On 13.12.1980, one Physical Education Teacher post was upgraded as Physical Director Grade-II. In the said post one Mr.S.Kulanthai is working. The grievance of the petitioner is that the petitioner is entitled for sanctioning of three posts of Physical Education Teacher and in the event of having three posts of Physical Education Teacher, then, one post is to be upgraded as Physical Director Grade-I. The learned counsel for the petitioner reiterated that the said Mr.Kulanthai is working as Physical Director Grade-II and considering the students strength of the petitioner school, the post must be upgraded as Physical Director Grade-I with effect from 02.06.2005. The petitioner school earlier filed W.P.(MD)No.11807 of 2011 and this Court passed an order directing the authorities to consider the representation. Based on the directions of this Court, the impugned order has been passed by the respondents rejecting the claim of the petitioner for upgrading the post of Physical Director Grade-II as Physical Director Grade-I with effect from 02.06.2005 on the ground that the school is sanctioned with one post of Physical Education Teacher and one post of Physical Director Grade-II. As per the Government Order issued in G.O.Ms.No.73, School Education Department, dated 19.03.2010, if three Physical Education Teacher posts are sanctioned in a school, then, one post shall be upgraded as Physical Director Grade-II and therefore, the upgradation of the post of Physical Director Grade-II from Physical Director Grade-I cannot be granted.

3.The learned counsel for the petitioner referred G.O.Ms.525, School Education (D1) Department, dated 29.12.1997 issued by the Government regarding the revision of norms for assessment of grant for teaching posts. As per the Government Order "when the strength in classes VI to X in the High Schools exceeds 250, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Education Teacher will be sanctioned subject to a maximum of 3". Therefore, the petitioner school is entitled for three posts of Physical Education Teacher. If three posts of Physical Education Teacher is sanctioned, then, the upgradation is to be given from Physical Director Grade-II to Grade-I as per G.O.Ms.No.73 and accordingly, the petitioner school is eligible to get upgradation as per the relief sought for in the present writ petition.

4.The learned counsel for the petitioner referred the Judgment of the Hon'ble Division Bench of this Court in the case of **Director of School Education, Chennai Vs. K.Uma** reported in **2010 (2) MLJ 277** and the relevant paragraph Nos.23 and 24 are extracted hereunder:-

"..23.As stated above, the normal understanding of the above government order with regard to Physical Education Teachers is that the High Schools would have maximum number of three Physical Education Teachers and Higher Secondary School would be added one more Physical



Education Director in the name of Physical Education Director. However, there cannot be any ceiling with regard to the strength of teachers as the same is bound to vary/increase as per the strength of the student's. When the student strength is increased, the ceiling has to be removed and required more Physical Education Teachers are to be appointed, otherwise the students would suffer irreparably and the government order would go against the very scheme of education.

24.Hence G.O.Ms.No.525 needs to be given a liberal interpretation and the government is at liberty to reconsider the matter and issue reasonable viable and appropriate norms with regard to appointment of physical education teachers in the schools as per the strength of students, considering the observations made by this Court expeditiously.."

5.Relying on the said Judgment, the learned counsel for the petitioner reiterated that the importance of the Physical Education Teacher in the school is emphasized by the Hon'ble Division Bench and therefore, there cannot be any restriction for sanctioning of Physical Education Teacher in a school where adequate post is available. The principles of restriction of the post of Physical Education Teacher is not appreciated by the Hon'ble Division Bench of this Court and therefore, the writ petition is to be allowed.

6.The learned Additional Government Pleader appearing on behalf of the respondents opposed the contentions by stating that the petitioner school is not entitled for the relief as such sought for in the present writ petition. The petitioner school is sanctioned with two posts of Physical Education Teacher alone. Out of the two sanctioned posts, one post is already upgraded as Physical Director Grade-II and the said Mr.Kulanthai is working now in the said post. As per the Government Order issued in G.O.Ms.No.73, dated 19.03.2010, only in case of availability of three sanctioned posts of Physical Education Teacher, then, alone one post of Physical Director Grade-I can be sanctioned and not otherwise. When the petitioner school is having only two sanctioned posts of Physical Education Teacher, they are not eligible to seek upgradation as per the Government Order issued in G.O.Ms.No.73.

7.Considering the arguments, this Court is of the considered opinion that sanctioning of the post is the Government policy, which is issued in G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997. Thus, fixation of staff strength in Elementary/High/Higher Secondary Schools for the purpose of State Aid is to be considered based on the said Government Order. The said Government Order as stated in the aforementioned paragraph stipulates that "when the strength in classes VI to X in High



Schools exceeds 250, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Education Teacher will be sanctioned subject to a maximum of 3". The Government Order unambiguously states that one post of Physical Education Teacher will be sanctioned in the students strength exceeds 250, and for every additional strength of 300, another post of Physical Education Teacher will be sanctioned. However, the maximum post of three alone is the ceiling limit. Thus, any other school is not entitled to have more than three physical Education Teachers.

8. With reference to G.O.Ms.No.73, dated 19.03.2010, which was issued regarding upgradation to the post of Physical Education Teacher as Physical Director Grade-II and Physical Director Grade-I. The said Government Order is passed enabling the Director to consider the students strength and accordingly, issue order in accordance with the Government policy issued in G.O.Ms.No.525. Paragraph No.2 of the Government Order clearly states that in a Government Aided Higher Secondary School, if three posts of Physical Education Teacher is sanctioned as per the students strength and as per G.O.Ms.No.525, actions may be taken by the Director for upgradation to the post of Physical Director. The Government Order does not speak about the manner in which, such upgradation is to be given. However, it is made clear that only in the event of sanctioning three posts of Physical Education Teacher, upgradation shall be given to the post of Physical Director.

9. In the present writ petition, the petitioner admittedly is having two sanctioned post of Physical Education Teacher, out of which, one post is already upgraded as Physical Director Grade-II. As per the Government policy issued in G.O.Ms.No.525, dated 29.12.1997 only if three posts of Physical Education Teacher is sanctioned, then alone the upgradation is to be considered based on the Government order issued in G.O.Ms.No.73, dated 19.03.2010.

10. The counter affidavit filed by the second respondent/Chief Educational Officer reveals that as per G.O.Ms.No.73, School Education Department, dated 19.03.2010 and G.O.Ms.No.525, School Education Department, dated 29.12.1997, if a school had two Physical Education Teacher and one Physical Education Teacher Grade-II, the post may be upgraded as Physical Director Grade-I. Contrarily, the petitioner school has only one Physical Education Teacher and one Physical Director Grade-II and therefore, the post of Physical Director Grade-II could not be upgraded as Grade-I.

11. The post of Physical Director Grade-II could be upgraded as Grade-I, if the school had two Physical Education Teacher and Physical Director Grade-II as per the G.O.Ms.No.525, dated 29.12.1997. Under these circumstances, the claim of the writ petitioner for upgradation to the post of Physical Director Grade-II as Physical Director Grade-I was rejected.



12.This Court is of the considered opinion that the Government policy issued in G.O.Ms.No.525, dated 29.12.1997 cannot be deviated for the purpose of sanctioning of post or for grant of upgradation. Sanctioning of post or for grant of upgradation, involve payment of Government salary to the teachers. Thus, whenever a school submits proposal for sanctioning of post or for grant of upgradation, the competent educational authorities must conduct a thorough enquiry with reference to the students strength and the other criterias with reference to the Government policy and accordingly, pass appropriate orders. In the present case, the writ petitioner school is sanctioned with two posts of Physical Education Teacher, out of which, one post was upgraded as Physical Director Grade-II and for further upgradation, there must be three sanctioned post in the petitioner school. Admittedly, the three posts are not sanctioned and two post of Physical Education Teacher alone is sanctioned.

13.This being the factum established, this Court has no hesitation in arriving a conclusion that the petitioner has not established any acceptable ground for the purpose of grant of upgradation as such sought for in the writ petition. However, it is made clear that the petitioner school is at liberty to approach the competent educational authorities, if there is any increase in the students strength and if they are otherwise eligible for additional sanctioning of post. In the event of submitting any such proposal, the competent educational authorities are bound to consider with reference to the inspection report of the competent educational authorities and take a decision and pass appropriate orders in accordance with the Government policy.

14.With these directions, the writ petition stands disposed of.
No costs.

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar(CS)

sjj

To

1.Director of School Education,
Chennai-6.



2.Chief Educational Officer,
Tuticorin, Tuticorin District.

3.The District Educational Officer,
Tuticorin, Tuticorin District.

+1 CC to M/s.GP (SR-24263[F] dated 07/12/2020)

W.P. (MD) .No.10334 of 2012
04.12.2020

TP (CO)
TR(18.12.2020) 6P 5C