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W.A(MD)No.1518 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A(MD)No.1518 of 2019

and

C.M.P(MD)No.12148 of 2019

1.Abraham Memorial Higher Secondary School,
Maruthancode,
Kanyakumari District - 629 163,
represented by its Correspondent,

2.S.S.Subin ... Appellants/ Petitioners

Vs.

1.The Stat of Tamil Nadu,
represented by its Secretary,
Department of Education,
Fort St George, Chennai - 600 009.

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

3.The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District.

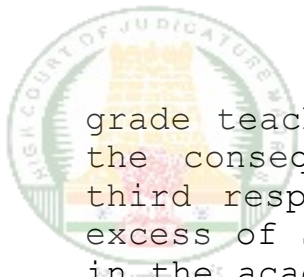
4.The District Educational Officer,
Kuzhithurai at Marthandam,
Kanyakumari District.

.. Respondents / Respondents

PRAYER: The Writ Appeal filed under Clause 15 of Letters Patent, to set aside order dated 19.08.2019 passed in W.P(MD)No.8663 of 2016, on the file of this Court and thereby allow this writ appeal.

Prayer in WP(MD). 8663/ 2016 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent, pertaining to his order in proceedings Moo.Mu.No.6477/Aa1/2013 dt.03.09.2013, signed on 03.10.2013, on his file and the consequential order of the 4th respondent in O.Mu.No.1577/A2/2016, dated 2.4.2016 on his file, quash the said order of the 3rd respondent insofar as the same states that there is an excess of five posts of secondary



grade teachers with teachers and two posts of secondary grade and the consequential order of the fourth respondent directing the third respondent to pass orders to the effect that there is no excess of Secondary Grade Teacher in the first petitioner - School in the academic year 2013-14, and the fourth respondent to approve the second petitioner's appointment as B.T.Assistant in the first petitioner - school with effect from the forenoon of 10.06.2013, by order in R.C.25/2013 dated 10.06.2013 of the first petitioner and directing the respondents to give to the second petitioner salary and all other benefits as such.

For Appellants : Mr.S.C.Herold Singh
For Respondents : Mrs.S.Srimathy,
Special Government Pleader

JUDGMENT

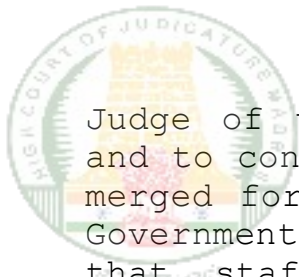
[Judgment of the Court was delivered by **N.KIRUBAKARAN, J.**]

The writ appeal has been filed as against dismissal of the writ petition, which was filed challenging the order passed by the 3rd respondent, rejecting the approval of the appointment of the Teachers in the 1st appellant's school. The writ petition was dismissed by the learned Single Judge, holding that there are surplus Teachers in the 1st appellant's School and moreover, English medium section is not aided section and the Teachers, working in the English medium section cannot be considered for the purpose of Students-Teachers ratio.

2.Heard Mr.S.C.Herold Singh, learned Counsel appearing for the appellants and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3.It is evident from the records that the 1st appellant's school was a minority school till 10.09.2013 and thereafter, the school was treated as non-minority school, after it was found that there were surplus Teachers in the said school, during the inspection made by the Chief Educational Officer in the year 2012-2013. According to the learned Counsel for the appellants, there were no surplus Teachers in the 1st appellant's school and the English medium section also has to be taken into consideration for deciding the Students-Teachers ratio. However, the learned Single Judge has rightly rejected such a contention stating that the English medium cannot be considered, since English medium is not aided by the Government and it is only a self financing section started by the school management.

4.Though the learned Counsel appearing for the appellants would submit that there is already a judgment of a learned Single



Judge of this Court granting permission to start English medium and to consider both medium sections separately and they cannot be merged for fixing staff strength, Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents would contend that staff strength for Tamil medium section should be in consonance with the Students strength in Tamil medium and the staff strength for English medium should be in consonance with the Students strength in English medium and both the same cannot be clubbed. This Court finds some force in the submission of the learned Special Government Pleader, appearing for the respondents.

5.It is further brought to the notice of this Court that the 1st appellant school has already sustained a dismissal order, in a similar writ appeal in W.A(MD)No.12723 of 2019 and even though it is stated that against the dismissal order, review application is filed and pending before this Court, so far, the dismissal order has not been set aside and in the said writ appeal also a similar issue was raised and the contention of the appellants was negatived.

6.In view of the above, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

dsk

To

- 1.The Secretary,
Department of Education,
Fort St George, Chennai - 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District.



4.The District Educational Officer,
Kuzhithurai at Marthandam,
Kanyakumari District.

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