

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.23099 of 2019
W.M.P.No. 22811 & 22813 of 2019

Arunachalam Aided Middle School
Ozhindhiyapattu post,
Vaanur post,
Villupuram District - 605109.
Represented by its Secretary

.... Petitioners

-Vs-

1. The Government of Tamil Nadu
Represented By Its Secretary,
School Education Department,
St. George Fort,
Chennai - 600006.

2. The Director of Elementary Education,
College Road,
Chennai - 600006.

3. The District Elementary Education Officer,
Villupuram District,
Villupuram.

4. The Additional Assistant Elementary Educational Officer,
Vaanur at Thiruchitrambalam,
X Road, Aurovil via

Vaanur Taluk,
Villupuram District

.... Respondents

Prayer: Writ Petition 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 2nd respondent in Na.Ka.No. 1312/H2/2017, dated Nil.01.2018 and quash the same, consequently direct the respondents to sanction one Second grade teacher and 2 B.T. Assistant posts to the petitioner's School as per the Full Bench Judgment of this Hon'ble Court reported in 2016 (5) CTC Page 358 or any other suitable order.

For Petitioner : Mr. Sathish Kumar K.
For Respondents : Mr. A.Selvendran
Government Advocate

ORDER

This writ petition was filed challenging the proceedings of the 2nd respondent and for a consequential direction to the respondents to sanction one secondary grade teacher and two BT Assistant posts to the petitioner school.

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2. When the matter was taken up for hearing on 17.08.2021, this Court passed the following order :-

The writ petition challenges the impugned proceedings of the 2nd respondent and for a consequential direction to the respondents to sanction one secondary grade teacher and two B.T. Assistant posts to the petitioner's School.

2.Admittedly, the petitioner is an aided School. It is stated in para 9 of the counter affidavit filed by the 3rd respondent that two surplus secondary grade teachers from another School within the same union were posted under deputation in the petitioner School and they were not allowed to join duty. Similarly, one secondary grade teacher was also deployed to the petitioner School from a School where there was a surplus post and this teacher was also not permitted to joint in the petitioner School. The petitioner must keep in mind the fact that it is an aided School and it is the Government which is incurring the expenses towards the salary to the teachers. Therefore, when the authorities identify teachers and depute or deploy them in the petitioner School, the petitioner has to

permit these teachers to function and the petitioner cannot refuse to allow the teachers to join the School.

3. When this was brought to the notice of the learned counsel for the petitioner, the learned counsel submitted that he will take instructions and report before this court.

4. Post this case under the caption "for orders" on 25.08.2021.

3. Thereafter, the matter was taken up for hearing on 02.09.2021 and this Court passed the following order :-

An affidavit has been filed by the petitioner along with all the relevant documents. It is seen from the additional affidavit that the Block Educational Officer-II, has conducted an inspection on 24.08.2021 and given a report which is available on record.

2. According to the petitioner, there are totally 81 students, who are studying between I and V standard and 55

students, who are studying between VI and VIII standard. By placing reliance upon G.O.Ms.No.231, School Education (C2) Department dated 11.08.2010, the petitioner is seeking sanction for one Secondary Grade Teacher post and two B.T. Assistant Post.

3.The 3rd respondent is directed to file a reply to the additional affidavit filed by the petitioner. Thereafter, this Court will consider the claim made by the petitioner and pass appropriate orders.

4.Post this case under the caption "for orders" on 16.09.2021.

4. When the matter was taken up for hearing today, the learned Government counsel submitted the additional counter affidavit filed by the 3rd respondent. The relevant portions in the additional counter affidavit are extracted hereunder :-

8. It is respectfully submitted that now the Petitioner had filed this additional affidavit stating that the overall students strength of the school is improved to 136 and the

school is eligible for the additional teacher posts of two B.T. Assistants and one Secondary Grade. The students strength of the school stated by the Petitioner is only as per the school records and is not confirmed by the Departmental Authorities since the school is closed in respect of Covid 19 pandemic situation. Whenever the school is opened, then only the strength of the students will be confirmed by actual head counting. Thereafter the eligible teachers posts could be determined in accordance with teacher pupil ratio of 1:30.

9. *It is respectfully submitted that even if the strength of pupil is taken into account, the school is entitled for one more post of Secondary Grade Teacher for classes I to V, as stipulated in the schedule to G.O. (Ms) No.231 School Education (C2) Department dated 11.08.2010. If the strength of pupils in class VI to VIII is more than 100, then only the school is eligible for one post of a full time Headmaster. As the strength of students said to have been*

55 in classes VI to VIII, the school is eligible for only 3 B.T. Teachers including Headmaster. Any how it can be decided only on confirmation of the student strength after reopening of the school. Further, it is respectfully submitted that allotment of additional teacher posts is considered only after sanction of posts by the Government according to the priority of maximum need of the schools. It is pertinent to mention here that the Petitioner had adamantly refused to join the Secondary Grade Teacher deployed from Gingee Union to his school in the year 2018. So also he refused to join two Secondary Grade Teachers posted to his school under deputation in the same year.

5. It is clear from the above that the 3rd respondent wants to ensure that the strength of the students as claimed by the petitioner is substantiated before taking a decision in sanctioning the posts as per G.O MS No.231, dated 11.08.2020. This Court is able to understand the predicament faced by the 3rd respondent since physical school is not

taking place due to the pandemic situation and therefore, the 3rd respondent has to necessarily verify the number only by going through the records available in the School. The 3rd respondent can also take into consideration the report of the BEO II, dated 24.08.2021, wherein the head count of the students was made and this report is also available along with the additional affidavit filed by the petitioner on 31.08.2021. This inspection was conducted by a competent authority and therefore it has to be acted upon by the 3rd respondent.

6. In view of the above discussion, the impugned proceedings of the second respondent is hereby set aside and the matter is remanded back to the file of the 2nd respondent. The 3rd respondent is directed to verify the relevant records in the school and also take into consideration the report of the BEO II, dated 24.08.2021 and submit a fresh report before the 2nd respondent within a period of 4 weeks from the date of receipt of a copy of this order. The 2nd respondent on receipt of the same shall act upon the report of the 3rd respondent and decide sanctioning of the posts in line with G.O MS No. 231 dated

11.08.2010. This process shall be completed by the 2nd respondent within a period of 8 weeks from the date of receipt of the report from the 3 respondent.

7. In the result this writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

16.09.2021

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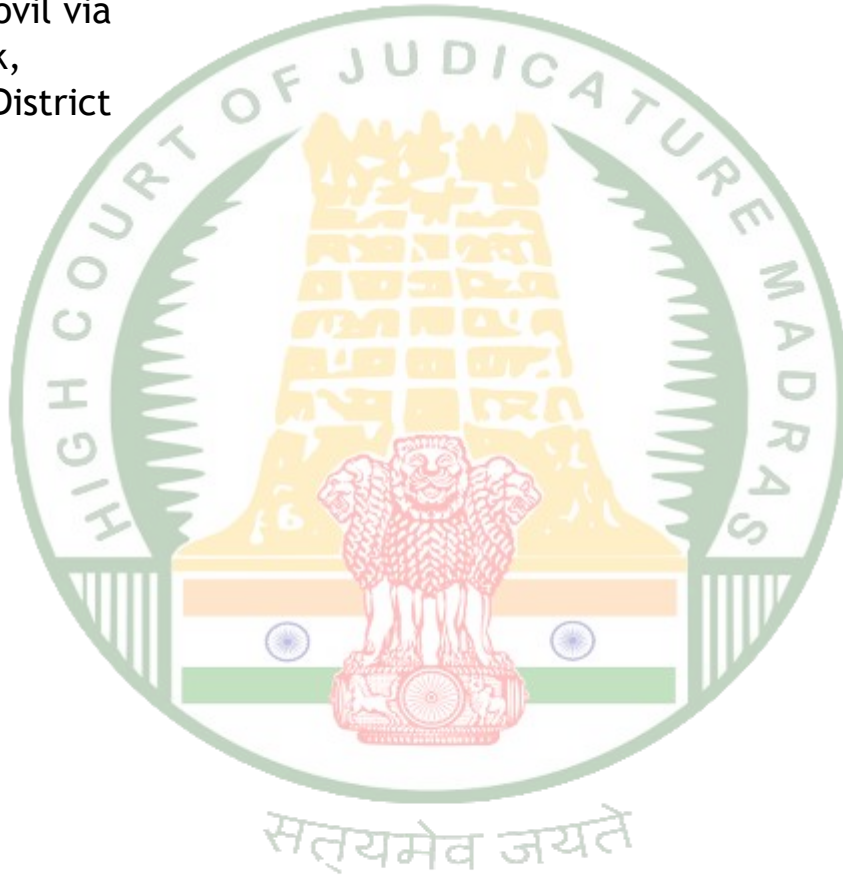
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N.ANAND VENKATESH, J.

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