



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. [MD] .No.228 of 2020

W.M.P. [MD] .No.140 of 2020

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The Corporate Manager,
High/Higher Secondary Schools/Special School
& Teacher Training Institutes,
CSI Thoothukudi-Nazareth Diocese,
Diocesan Office,
Caldwell Higher Secondary School Campus,
Beach Road,
Thoothukudi-628 001.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep.by its Secretary,
School Education Department,
Secretariat,
Fort St.George,
Chennai-9.

2.The Director of School Education,
DPI Campus,
Chennai-6.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the second respondent in his proceedings in Na.Ka.No.16694/V1/E3/2019, dated 15.07.2019 and quash the same and consequent direction may be issued to the respondents to grant computer science as elective subject and to sanction the post of computer instructors for our 20 Higher Secondary Schools in Thoothukudi District within stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.A.Kannan

Additional Government Pleader

ORDER

This Writ Petition has been filed as against the proceedings dated 15.07.2019, in and by which, the second respondent rejected the request of the petitioner for sanctioning the post of computer instructors on par with government schools.



2. Mr.A.Kannan, learned Additional Government Pleader takes notice on behalf of the respondents and submits that computer course is a new subject which is not permissible under Section 14 A of the Tamil Nadu Recognized Private Schools (Regulation) Act (in short "Act"). Section 14A of the Act reads as follows:

Payment of grant. - [(1) Subject to such rules as may be prescribed, the Government may continue to pay grant to the private school receiving grant from the Government, before the date of commencement of the academic year 1991-1992 at such rate and for such purposes as may be prescribed.

Explanation. - For the purposes of this sub-section, private school receiving grant from the Government shall also include a private school receiving grant from the Government only in respect of any class or course of instruction.]

(2) The Government may withhold permanently or for any specified period the whole or part of any grant referred to in sub-section (1) in respect of any private school, -

(i) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder insofar as such provisions, rules or directions are applicable to such private school, or

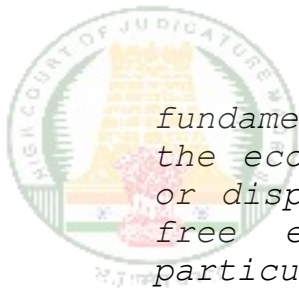
(ii) in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or

(iii) which contravenes or fails to comply with any such conditions as may be prescribed.

(3) Before withholding the grant under sub-section (2), the Government shall give the educational agency an opportunity of making its representation.

3. This Section was challenged in W.A.No.1213 of 1999 etc., batch before this Court and the Hon'ble Division Bench of this Court has upheld the validity of Rule 14 of the said Act. The relevant portion of the said judgment is extracted hereunder:

Under these circumstances, we hold that the impugned provision viz., Section 14-A of the Tamil Nadu Recognized Private Schools (Regulation) Act does not violate any of the provisions of the Constitution and the same is constitutionally valid. Grant-in-aid is neither a



fundamental right, nor a statutory right and it depends upon the economic capacity of the State. There is no allegation or dispute as to the fact that the Government is providing free education to the children below 14 years. The particulars furnished show that no Government School or Aided School is denied the right of imparting free education to the children. The State Government, taking note of various aspects including the fact that it has achieved Gross Access Rate in the year 2003-2004 itself in fulfilling the constitutional mandate of providing free education to all children and that it is not in need of any more Private Schools in its efforts to achieve the goal of providing free education, has taken a policy decision not to grant aid to private schools established on or after the academic year 1991-92. Inasmuch as the policy decisions are exclusively within the executive domain and in the light of the facts and figures furnished in the Annexures which we have referred to in the earlier paragraphs, we are satisfied that there is no merit in the claim made by the petitioner. Consequently, the Writ Appeals as well as Writ Petitions filed by the Educational Institutions and others fail and they are, accordingly, dismissed. No costs. Connected W.P.M.Ps. are closed.

4. In the light of the judgment of the Hon'ble Division Bench of this Court and the provisions of Section 14 of the Act, this Court does not find any merit in the claim made by the petitioners. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

- 1.The Secretary,
School Education Department,
Secretariat,
Fort St.George,
Chennai-9.



2.The Director of School Education,
DPI Campus,
Chennai-6.

+1 CC to M/s.SPL GP (SR-36525[F] dated 30/11/2021)

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