



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1090 of 2021
and C.M.P. (MD) No.4838 of 2021

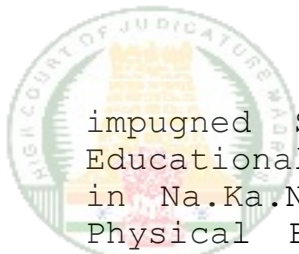
- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.The Director of School Education,
College Road,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil - 629 001.
- 4.The District Educational Officer,
Nagercoil - 629 001,
Kanyakumari District. ... Appellants/Respondents 1 to 4

Vs.

- 1.V.Shyni,
Physical Education Teacher,
The Church Girls High School,
Nagercoil, Kanyakumari District. ... 1st Respondent/Writ Petitioner
- 2.The Correspondent,
Home Church Girl's High School,
Nagercoil - 629 001,
Kanyakumari District. ... 2nd Respondent/5th Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.7943 of 2018, dated 02.01.2020.

PRAYER in W.P. (MD)No.7943 of 2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the



impugned Staff Fixation issued by the 4th respondent District Educational Officer for the academic year 2013-2014 vide proceedings in Na.Ka.No.6327/A2/2013 dated 18.10.2013 indicating one post of Physical Education Teacher as Surplus without teacher, and the consequent proceedings issued by the Director of School Education vide proceedings in Na.Ka.No.68160/D1/E4/2013 dated 21.02.2014 insofar as the fifth respondent school is concerned, quash the same and further direct the respondents to approve the appointment of the petitioner as Physical Education Teacher in the fifth respondent school w.e.f., 27.06.2013 and disburse grant-in-aid towards her salary and other monetary benefits.

For Appellants : Mr.R.Baskaran
Standing Counsel for Government

For Respondent No.1 : Mr.S.Xavier Rajini
* * * * *

J U D G M E N T

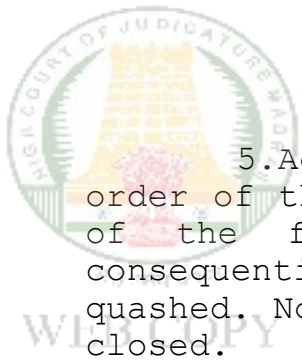
(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

This Writ Appeal filed by the Writ Petitioner is directed against the order dated 02.01.2020 in W.P.(MD) No.7943 of 2018. The said Writ Petition was filed by the first respondent herein, who is a Physical Education Teacher, working in the second respondent school. The order challenged in the Writ Petition dated 18.10.2013, is the staff fixation order, by which the single Physical Education Teacher post, in which the first respondent was working, is declared as surplus.

2.The learned Single Judge after taking note of the Division Bench judgments and after noting the importance of physical education to be imparted to the students as emphasised in the case of **Director of School Education v. K.Uma** reported in **(2010) 2 MLJ 277**, allowed the Writ Petition.

3.Learned Standing Counsel for Government appearing for the appellants submitted that there is a fall in students strength and therefore, the staff fixation order dated 18.10.2013, declaring the post of Physical Education Teacher as surplus, is a proper order.

4.In our considered view, the learned Single Bench took note of the importance of the physical education being imparted to the students and held that assuming that there is a fall in students strength, it may not be justifiable and reasonable to declare the single post of Physical Education Teacher as surplus. Thus, in the peculiar circumstances cited by the learned Single Judge, we find that there is no reason to interfere with the impugned order.



5. Accordingly, the Writ Appeal is dismissed, confirming the order of the learned Single Judge. Consequently, the impugned order of the fourth appellant dated 18.10.2013, as well as the consequential order of the second appellant dated 21.02.2014, are quashed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
Department of School Education,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
Kanniyakumari District,
Nagercoil - 629 001.
4. The District Educational Officer,
Nagercoil - 629 001,
Kanniyakumari District.

+1 CC to M/s.S.XAVIER RAJINI, Advocate (SR-19437
[F] dated 17/06/2021)

W.A. (MD)No.1090 of 2021
15.06.2021

DKS (CO)
TR(30.06.2021) 3P 6C