



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.03.2022
CORAM
THE HONOURABLE MR.JUSTICE M.S.RAMESH

WEB COPY

W.P.No.26507 of 2009
and M.P.Nos.1 & 2 of 2009

S.B.M. Primary School (Minority)
Rep. by its Correspondent,
D.David Livingston,
Namakkal - 637001.

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by the Secretary to Government,
Education Department, Secretariat,
Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The Director of School Education,
College Road, Chennai - 6.

4.The District Educational Officer,
Namakkal.

5.The District Elementary Educational Officer,
Namakkal.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the second respondent in Na.Ka.No.42233/G3/2008 dated 09.01.2009 and quash the same and direct the respondents to restore the two posts of Secondary Grade Teacher and allot the same from the petitioner school to the high school.

For Petitioner : Mr.S.N.Ravichandran

For Respondents: M/s.R.Rajarajeswari [for R1 to R5]
Government Advocate

ORDER

Two Secondary Grade Posts in the petitioner's school came to be declared as surplus in the year 2004. It is the case of the petitioner that they are running a Primary School as well as the High School and that if both the schools are taken as one unit, these two posts cannot be rendered as surplus. It is also the case that when the post of the Secondary Grade Teacher is sought to be filled up through B.T. Assistant, the same is permissible in view of G.O.Ms.No.125 dated 12.11.2003.



2. This apart, the learned counsel for the petitioner submitted that as on date, the strength of the students has considerably increased and therefore, if the respondents reconsider their decision, the question of surplus cannot arise.

3. In view of the submissions made, this Court is of the view that since the strength is claimed to have increased which may not result in the declaration of the two surplus posts, the respondents could be directed to reconsider their earlier decision through the impugned order dated 09.01.2009.

4. In the light of the above observations, the petitioner is granted liberty to give a representation to the second and fifth respondents herein ventilating their grievances and on receipt of the same, second and fifth respondents herein shall consider it on its own merits and in accordance with law, without reference to the earlier order of the second respondent dated 09.01.2009 and pass appropriate orders within a period of three months from the date of receipt of the representation.

Accordingly, this Writ Petition stands disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Sni
To

1.The Secretary to Government,
State of Tamil Nadu
Education Department, Secretariat, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The Director of School Education,
College Road, Chennai - 6.

4.The District Educational Officer, Namakkal.

5.The District Elementary Educational Officer, Namakkal.

+1 cc to Mr. S.N.Ravichandran, Advocate Sr.NO. 15438

+1 cc to Government Pleader Sr.NO. 15906

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GPL (CO)

A.SK(28/03/2022)