



W.P.(MD)No.6711 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6711 of 2020

and

W.M.P.(MD)Nos. 6075 & 6076 of 2020

J.Jebarani

... Petitioner

Vs.

1. The Chief Educational Officer
Dindigul District,
Dindigul - 624001.

2. The District Educational Officer
Palani Educational District,
Palani,
Dindigul District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records made in the impugned order made stay of the impugned order made in Na.Ka.No.1816/E1/2019 dated 23.03.2020 issued by the 1st respondent



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and quash the same with regards to the petitioner alone and consequently direct the respondents to permit the petitioner as Secondary Grade Teacher in Santineketan Higher Secondary School at Ambilikai in Oddanchatram Taluk.

For Petitioner : Mr.P.Arun Jayatram
For Respondents : Mr.J.Amjed Khan
Government Advocate

ORDER

This writ petition has been filed to quash the impugned order made stay of the impugned order made in Na.Ka.No.1816/E1/2019 dated 23.03.2020 issued by the 1st respondent, with regard to the petitioner alone and consequently direct the respondents to permit the petitioner as Secondary Grade Teacher in Santineketan Higher Secondary School at Ambilikai in Oddanchatram Taluk.

2. The learned counsel for the petitioner submitted that the petitioner was appointed as a Secondary Grade Teacher on 01.08.1998 in



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Government Aided Minority Institution in the Santineketan Higher Secondary School at Ambilikkai in Oddanchatram Taluk. On 09.12.2014 due to non-availability of the strength for the academic year 2014-2015, the first respondent passed the impugned order of deployment. Aggrieved by the same, the petitioner filed a writ petition before this Court in W.P.(MD) No.497 of 2015 and this Court granted an order of interim stay and subsequently, the said writ petition was disposed of by this Court on 23.11.2008 by issuing a direction to the respondents to assess the student / teachers strength and fix the teaching staff strength and accordingly, deploy excess staff to the needy School in accordance with G.O.Ms.No.525, School Education Department, dated 29.05.1997 and guidelines issued time to time by the authorities. The said exercise shall be completed in the end of the academic year. Subsequently, the School management filed a writ petition before this Court not to transfer the surplus teachers in W.P.(MD) No.12583 of 2019 forbearing the respondents for transferring the surplus staff working under the Management School and consequently, direct the respondents to consider the representations, dated 28.02.2019 and 30.03.2019 and the said writ petition was disposed of on 10.07.2019 issuing a direction to the first



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respondent to consider the representation of the petitioner, dated 28.02.2019 on merits and in accordance with law. In compliance of the order, dated 23.03.2020, the first respondent passed an order and subsequently, on 19.12.2019, the second respondent passed an order transferring the petitioner to the needy School Sri Renuka Devi Higher Secondary School, Neikkarapatti, Palani and the said order was not served on the petitioner and the said order was served by the Management School on 28.05.2020. The respondent, without assessing the requirement for the English Medium, passed an order based on the staff fixation, dated 01.08.2019. As per G.O. (1D) No.217, dated 20.06.2019 School Education Department had categorically provided that the teachers's strength assessment for staff fixation should be done independently for the medium and School Management should ensure that there must be minimum 15 students and if the student strength is less than 15, the students should be accommodated in the nearby English medium School. However, the second respondent had not assessed the strength of the English Medium School and passed the earlier impugned order. However, till the filing of the writ petition, the petitioner was not relieved by the School Management. Therefore, the



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petitioner filed a writ petition for Mandamus challenging the said impugned order, dated 23.03.2020.

3. The learned counsel for the petitioner submitted that the impugned order passed by the respondent is contrary to the earlier order passed by this Court and without assessing the student strength, they passed the impugned order transferring the petitioner to the needy School, is not sustainable one. Accordingly, he prayed for allowing the writ petition.

4. The learned Special Government Pleader appearing for the respondents submitted that the petitioner School has started English Medium Classes upto VI standard without getting any approval from the department, which is a clear violation of Rule 6 of Tamil Nadu Private Schools Regulation Act, 1978, r/w. Rule 4 under G.O.No.145 Education (SED) Department, dated 17.09.2018. Since the English Medium section is started after 1991-1992, the School is not entitled to any grant-in-aid as per section 14(A) of the Tamil Nadu Private School Regulation Act. There is an order of interim stay, dated 20.03.2020 for the impugned deployment



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order filled by School Management in W.M.P.(MD) No.5798 of 2020 in W.p.(MD) No.6475 of 2020. The said deployment orders were passed deploying two excess teachers namely, Sundarraaj and Jebarani. The said Sundarraaj has retired from service on 30.04.2020, but the petitioner Jebarani is an excess teacher, still continuing in the school as per interim order. As there is neither students nor eligible post, the salary being paid to the petitioner Jebarani, is an unnecessary expenditure to the Government Exchequer. Hence, he prayed for dismissal.

5. Heard, the learned counsel appearing for the petitioner and learned Government Advocate appearing for the respondents.

6. The facts in the present case are not in dispute. Admittedly, the petitioner filed a writ petition challenging the deployment order passed by the first respondent, dated 20.03.2020 and earlier, at the instance of the petitioner as well as the Management School assessed the surplus teacher and the respondent arrived at a conclusion that two surplus teachers post was vacant namely, one Sundarraaj, B.T. Assistant (History) who was



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transferred to Tirupathi Arulneri Kazhagam Higher Secondary School, Kallimanthayam and the petitioner Jebarani, Secondary Grade Teacher was transferred to Sri Renukadevi Higher Secondary School, Neikkarapatti. The said order was passed in the year 2020 and subsequently, the very same impugned order was challenged by the school Management before this Court in W.P.(MD) No.6475 of 2020, as against the deployment of the petitioner as well as one Sundarraaj and the said petition was dismissed on 02.12.2022 and the relevant paragraph reads as follows :

" 10. Coming to the merits of the case, the writ petition is filed by the petitioner / Correspondent challenging the order of transfer. The Department has assessed the Student Teacher ratio and passed the impugned order deploying the excess Teachers to the nearby needy school, in accordance with G.O.Ms.No.525, School Education Department, dated 29.12.1977. It is the case of the petitioner that they are conducting English medium courses and without assessing the ratio independently, the Department has passed the impugned order. But, it is admitted by both party that the petitioner school has not obtained any



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permission for conducting the English medium courses and they are not entitled for any aid for the courses, which they are conducting in English medium.

11.As per Section 26 of the Tamil Nadu Private School Regulation Act, 1973, where any retrenchment of any Teacher employed in any private school is rendered necessary, as per the norms fixed by the Government, such Teacher shall be appointed in any other needy School. Here, the Department has assessed the ratio of the petitioner-s School and thereafter, took a call for transferring the surplus posts for effective administration. Courts are not expected to interfere with such administrative transfers in a routine manner, unless or otherwise if it is tainted with an allegation of mala fide or issued without jurisdiction.

12.In view of the above position, this Court is not inclined to entertain this writ petition and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed."



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7. In view of the above, the very same impugned order was challenged by the School Management and subsequently, the same was dismissed and hence, applying the same, the present writ petition is liable to be dismissed.

8. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

19.12.2022

Index : Yes / No

Speaking Order : Yes / No

RM

To

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Palani,
Dindigul District.



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M.DHANDAPANI,J.

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