



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 12.09.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.15731 of 2018 and**  
**W.M.P.(MD)Nos.14095 & 14096 of 2018**

The Correspondent,  
R.C.Middle School,  
Ammapatti – 624 206,  
Dindigul District.

... Petitioner

Vs.

1. The Director of Elementary Education,  
College Road, Chennai – 600 006.

2. The District Educational Officer,  
Previously the DEEO,  
Dindigul,  
Dindigul District.

3. The Block Educational Officer,  
Previously the AAEEEO, Nilakottai,  
Dindigul District.

... Respondents

**Prayer:** Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned staff-fixation orders issued by the 2<sup>nd</sup> respondent DEO/DEEO for the academic year 2015-2016 and 2016-2017 dated 04.11.2016 and 28.02.2017 respectively in so far as it renders one post of BT Assistant (English) in the petitioner's school as surplus and the consequential impugned proceedings issued by the 2<sup>nd</sup>



respondent vide Na.Ka.No.3616/Aa3/2016 dated 12.07.2017 in so far as surrendering the BT Assistant(English) post in the petitioner school to the Director is concerned and quash the same.

For Petitioner : Mr.K.Ragatheesh Kumar,  
for M/s.Isaac Chambers.

For Respondents: Mr.S.Shaji Bino,  
Special Government Pleader.

\* \* \*

### **ORDER**

Heard the learned counsel on either side.

2.The writ petitioner is a middle school coming under the Corporate management of R.C.Diocese, Madurai. It is a minority institution. There are totally 101 students are studying in the primary section. The primary section has the sanctioned strength of four teachers and there is no dispute regarding the same. At present the petitioner challenges the staff fixation for the middle school section (classes 6 to 8) for the academic year 2016-17.



3. When the matter was taken up for hearing, I wanted the learned Special Government Pleader to make a statement regarding the exact students strength as of now. It is stated that the students strength for the classes 6 to 8 is as follows:-

| Class | Male | Female | Total |
|-------|------|--------|-------|
| 6     | 17   | 10     | 27    |
| 7     | 17   | 23     | 40    |
| 8     | 24   | 13     | 37    |
| Total | 58   | 46     | 104   |

4. Since there are only 104 students, the question is how many teachers can be sanctioned. According to the learned counsel appearing for the writ petitioner, they are entitled to four teachers. They had been sanctioned with four posts ( 3 B.T. Assistants + 1 Headmaster ) and that this arrangement should not be disturbed. He stated that there are totally five subjects, namely, Tamil, English, Mathematics, Science and Social Science. Tamil teacher cannot be expected to teach English or vice versa. Therefore, ideally speaking, middle school section must have five teachers with one headmaster. The learned counsel placed heavy reliance on the



decision of the Hon'ble Full Bench of Madras High Court reported in **2006 (5) CTC 385 ( Director of Elementary Education V. S.Vigila )**. He would also contend that under Article 21A of the Constitution of India, every child has a fundamental right to education. He would state that since the Government could not establish educational institutions to cater to the needs of the students, they are obliged to support the existing institutions. He called upon this Court to quash the impugned order and direct the respondents to maintain the present strength of eight teachers for the school.

5.Per contra, the learned Special Government Pleader submitted that the impugned staff fixation does not call for any interference.

6.I carefully considered the rival contentions and went through the materials on record.

7.The decision of the Hon'ble Full Bench reported in **2006 (5) CTC 385 ( Director of Elementary Education V. S.Vigila )** cannot be applied for two reasons. It pertains to



elementary schools and extending the underlying logic to classes 6 to 8 may not be appropriate. A learned Judge of this Court had held in ***Y.Elizabeth Rani v. Board of Elementary Education [(2013) 1 Mad LJ 335]*** observed that “the Full Bench in Paragraph No.23.5 had given liberty to the Government to formulate appropriate norms in consideration with the observation made thereunder and therefore, it cannot be universally said that every elementary school, irrespective of the students strength, should have 5 teachers. The said argument also goes to the contrary to the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977, wherein, the State Government has stipulated that even in respect to minority schools there should be economic strength prescribed by the Education Department in all the standards.” It was further observed that “the Government cannot be taxed to pay grant to teacher irrespective of whether there is students in the school or not.” Another learned Judge of this Court vide order dated 04.10.2012 in WP(MD)No.4006 of 2009 and WP(MD)No.5222 of 2009 observed that a mechanical application of *Vigila* would mean that even for 2 students in a standard, the Government is obligated to provide



a teacher. The contention of the writ petitioner therein was found to be unreasonable and amounts to fleecing the educational authorities under the guise of imparting free education. Para 30 of the said order is as follows :

*“The contention of the school that notwithstanding the strength in a standard, for each standard, one teacher has to be sanctioned is wholly unreasonable. In the name of imparting education, the school cannot interpret the Full Bench judgment, in the manner contrary to the intention in fixing the norms. Merely because the institution is an aided minority institution, it is not open to the school to raise unreasonable and unworkable demands. If for four students and 5 students in a standard, the Government have to sanction posts and grant aid then, the norms fixed by the Government can even be scrapped. At this juncture, this Court is constrained to observe that earlier it was the noble intention of educationists and philanthropists to start educational institutions with their own funds, to impart education to the needy, and it was purely charitable. The Government have also exempted them from paying certain taxes and granted concession in the matter of levying road tax, for even vehicles used for transporting staff and children. Today, as the Supreme Court having seen the trend, has described that imparting education by some of the institutions*



*has become an occupation. The contention of the learned counsel for the petitioner, that the Government is obligated to provide free education to the children below 14 years, and that therefore, even if the students strength falls shortage of the ratio 1:40, in a standard, the Government have to sanction teachers posts, is irrational."*

8.Classes 6 to 8 are having students' strength of 104. As per G.O.Ms.No.525 School Education (D1) Department dated 29.12.1997, when the students' strength crosses 100, they will be entitled to three teachers. As regards the argument of the petitioner's counsel that for each subject, there must be one specialised teacher, I can only respond that when the petitioner is coming under a corporate management, they can as well have one headmaster who is qualified in one of the five subjects. If the argument of the petitioner's counsel is accepted, then the result will be that they will have five teachers for five subjects for Classes 6 to 8 along with one headmaster. These are the matters that have substantial financial implications and the ground realities cannot be ignored. When the students' strength is 104 for Classes 6 to 8, they can have only three teachers including one headmaster.



I decline to interfere with the impugned staff fixation order.

This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**12.09.2022**

Index : Yes / No  
Internet : Yes/ No  
PMU

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