



W.P.No.8365 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.8365 of 2022 and
W.M.P.No.8335 of 2022

The Management of Bharat Mata Higher Secondary School,
Uppatty,
Pandalur Taluk,
Gudalur,
The Nilgiris – 643 241
rep. by its Correspondent

... Petitioner

Versus

1.The Director of School Education,
No.17, College Rd,
DPI Campus,
Nungambakkam,
Chennai – 600008.

2.The Chief Educational Officer,
Nilgiri District,
Additional Collectorate Building,
Finger Post,
Udagamandalam,
The Nilgiris – 643 101.

3.The District Educational Officer,
Gudalur Educational District,
Ovally Road,
Gudalur,
The Nilgiris – 643 211.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue appropriate writ, order or direction and in particular issue a writ in the nature of Certiorari after calling for the records of the 3rd respondent pertaining to his proceedings in O.Mu.No.4327/A2/2021 and quash the order dated 28.12.2021.

For Petitioner : Mr.R.Sivakumar
For Respondents : Mr.P.Baladhandayutham,
Special Government Pleader

ORDER

Challenging the impugned rejection order, dated 28.12.2021 in O.Mu.No.4327/A2/2021 passed by the 3rd respondent, this Writ Petition has been filed.

2.The contention of the petitioner school is that the respondents 2 and 3 considering the students strength had sanctioned six posts for Graduate Teachers, Secondary Grade Teacher, Physical Education Teacher and Craft Teacher. For the year 2018-19, the post of Graduate Teacher (Social Science) was declared as surplus. One M.K.Gheeveraghese, who is the senior most Teacher, is holding the post of Graduate Teacher (Social Science) for the last fourteen years and he is also in-charge for Headmaster in the same School. Since the respondents had declared the Graduate Teacher (Social Science), there is a possibility for transfer of



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M.K.Gheeveraghese to some other School. In such circumstances, the petitioner School has submitted detailed representation, dated 07.12.2021 to the respondents 2 and 3 requesting that instead of declaring the Graduate Teacher (Social Science) as surplus, the post of Secondary Grade Teacher may be declared as surplus, so that the petitioner School can retain the service of M.K.Gheeveraghese as Headmaster (in-charge). The 3rd respondent without considering the representation, rejected the same *vide* order, dated 28.12.2021 in O.Mu.No.4327/A2/2021 on the ground that the interest of students is a fact to be considered while any declaration of surplus is made. Challenging the same, the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that M.K.Gheeveraghese is effectively functioning as Head Master (in-charge) for the last fourteen years. In view of the declaration of the post as Graduate Teacher (Social Science) as surplus there is every possibility to transfer the said person from the petitioner School. Further, as per the guidelines issued in the case of “***The Secretary to Government, Government of Tamil Nadu and Ors., Versus Iruthaya Amali and Ors.,*** reported in ***MANU/TN/2420/2021***”, while identifying the excess staff for



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redployment purpose, regard has to be given that junior most teacher shall be subjected to such redeployment. Hence, he prays for quashing the rejection order passed by the 3rd respondent.

4.A counter has been filed by the 3rd respondent to the effect that in view of the orders passed by the Hon'ble Division Bench of Madras High Court in W.A(MD)Nos.76, 225, 341 of 2019, 1612, 1076, 1093, 1461, 1473 and 1531 of 2018, dated 09.04.2019, the Government has issued G.O(Ms).No.165, School Education (EE2(1)) Department, dated 17.09.2019 prescribing various restrictions in filling up of the surplus posts including the surplus teacher post found under the school functioning under corporate management also. It is also stated that the B.T. Assistant (Social Science) post in the petitioner School was found surplus, hence, the said M.K.Gheeveraghese has to be transferred to the needy school. Therefore, the representation of the petitioner School has been rejected by the 3rd respondent.

5.The learned Special Government Pleader appearing for the respondents on instructions submitted that till the retirement of the said



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M.K.Gheeveraghese, Head Master (in-charge), no transfer order will be passed by the authorities.

6.Heard the submissions of the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

7.On perusal of the entire records, the grievance of the petitioner has almost been addressed. Added to it, now the learned Special Government Pleader submitted that no action will be taken till the retirement of M.K.Gheeveraghese, Head Master (in-charge) from the petitioner School. Therefore, this Court is not inclined to interfere with the impugned order, dated 28.12.2021.

8.In such view of the matter, this Court is of the view that if any action is required for redeployment, the 3rd respondent shall strictly follow the guidelines issued in the case of “***The Secretary to Government, Government of Tamil Nadu and Ors., Versus Iruthaya Amali and Ors.,*** reported in ***MANU/TN/2420/2021***” wherein it had been held that while identifying the excess staff for redeployment purpose, regard has to be given



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that junior most teacher shall be subjected to such redeployment and also in case of high and higher secondary schools, while making such redeployment based on teacher-pupil ratio, regard has to be given to ensure that, atleast the minimum required teacher, for each subject being taught in the school, are in possession.

9. With the above direction, this Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

17.08.2023

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

1. The Director of School Education,
No.17, College Rd,
DPI Campus,
Nungambakkam, Chennai – 600008.

2. The Chief Educational Officer,
Nilgiri District,
Additional Collectorate Building,
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3. The District Educational Officer,
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N.SATHISH KUMAR, J.
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