



W.A.Nos.320 of 2017 and 369 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.Nos.320 of 2017 & 369 of 2019
and C.M.P.No.4794 of 2017 and 3613 of 2019

1.The State of Tamil Nadu
represented by its Principal Secretary
to Government, School Education Department
Fort St.George, Chennai.

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

3.The District Elementary Educational Officer
Tirunelveli District, Tirunelveli.

Vs

.... Appellants in both W.As.

W.A.No.320 of 2017

1.J.Mahalingam

2.Correspondent
Udankudy Saiva Prasasa Vidyasalai
Middle School, Tuticorin-628 703.

.... Respondents in WA 320/2017

W.A.No.369 of 2019

1.K.Parvathy

2.The Secretary
Hindu Middle School
Madathur, Gunaramanallur Post
Tenkasi Taluk, Tirunelveli District.

.... Respondents in WA 369/2019



W.A.Nos.320 of 2017 and 369

Prayer in W.A.No.320/2017 : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 23.12.2014 made in W.P.No.33248 of 2014.

Prayer in W.A.No.320/2017 : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 23.12.2014 made in W.P.No.33246 of 2014.

In both W.As.

For Appellants : Mr.N.Murali
Government Advocate

For Respondents : No appearance

COMMON JUDGMENT

(Judgment of the Court was delivered by R. SURESH KUMAR, J.)

Since the issue raised in both the appeals is one and the same, with the consent of the learned counsel on either side, these appeals are taken up together and disposed of by this common judgment.

2. The respondents were appointed as Secondary Grade Teachers in aided private schools, who are the party respondents in the writ petitions, sometime prior to 19.05.1998. It is to be noted that those teachers, though had been appointed to the post of Secondary Grade Teachers, they had higher qualifications like B.Ed or Tamil Pandit. However, in that capacity they had been working continuously. Subsequently, when the Schools they were working sent the proposal for the approval of their appointment to the competent authority ie., the Education Department, that has not been approved and was rejected. Therefore, it triggered the writ petitioners /



respondents herein to file writ petitions in W.P.Nos.33246 and 33248 of 2014 respectively.

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3. The said two writ petitions were heard together along with two connected writ petitions and a common order was passed on 23.12.2014, where those writ petitions were allowed. Aggrieved over the same, the present intra court appeals have been filed.

4. Heard Mr.N.Murali learned Government Advocate appearing for the appellants, who would submit that, insofar as these teachers are concerned, admittedly they did not have the qualification of Secondary Grade Teacher at the time of their appointment in the respective schools and it has been held that in order to hold the post of Secondary Grade Teacher, one must have the Secondary Grade Teacher Education Certificate, which is a special qualification. Therefore, mere having any other qualification like B.Ed or Tamil Pandit, cannot be treated as higher qualification and it is only a different qualification. Therefore, by having such different qualification, one cannot be permitted to work as Secondary Grade Teachers, as Secondary Grade Teachers mainly deal with the students upto 3rd standard. Therefore, child psychology being one of the important subject should have been taught to them and therefore such kind of training would be possible in secondary grade teacher training, which admittedly they do not have. Therefore, they are not eligible for the secondary grade teachers and their appointment as secondary grade teachers in the aided schools concerned cannot be approved and that was the stand taken by the appellant before the writ Court.



5. Learned Government Advocate would further submit that these factual aspects have not been considered in proper perspective by the learned Judge who dealt with the writ petitions and ultimately allowed the writ petitions by taking into account the earlier writ petitions which were allowed.

6. Learned Government Advocate would also submit that, insofar as the earlier orders which have been taken as precedence in passing the impugned order, those orders might have been passed before the Government had come forward to issue G.O.Ms.No.559 and 155 and therefore, those orders cannot be taken as a precedence to allow these writ petitions also. Hence, the learned Government Advocate, on that ground, wants the interference of this Court against the order impugned.

7. We have considered the said submissions made by the learned Government Advocate for the appellants and have perused the materials that have been placed before this Court.

8. Insofar as the holding the post of secondary grade teachers is concerned, no doubt, one must have the secondary grade teacher education certificate, which is a special qualification meant for that post alone. Merely having higher qualifications like B.Ed or Tamil Pandit or M.Ed cannot be treated as higher qualification, but it can only be treated as different qualification as has been held by the Division Bench of this Court long back.



9. However, this issue of appointing of B.Ed qualified persons or Tamil Pandits as secondary grade teachers, had engaged various Division Benches of this Court, where ultimately a Division Bench has passed an order on 29.06.2001, whereby a set of directions had been given. Out of which, one important direction that was given by the Division Bench was that, the teachers who have been appointed in the secondary grade vacancies without the secondary grade teacher education qualification, but with other qualification like B.Ed or Tamil Pandit etc., are concerned, their appointment, if it is made between 11.07.1995 and 19.05.1998, they can be permitted to continue in the said post, provided those teachers must be sent for a short term training of secondary grade teacher education and after completing the training, their services can be regularised or approved and they can be permitted to continue in the said post.

10. In fact, pursuant to the said order of this Court, the Government has come forward to issue a Government Order, viz., G.O.Ms.No.155, Education Department dated 03.10.2002, wherein Clause (xi) reads thus,

" (xi) After 19.05.1998, the graduate teachers appointed in the post of Secondary Grade Teachers, such appointments will not be accepted."

11. As per the said Government Order, those who had been appointed as secondary grade teachers with other qualification on or before 19.05.1998 are eligible to continue in the said post, provided they should have undergone a short term training in



secondary grade teacher education course. Those who had been appointed without such a qualification of secondary grade teacher training / education in the post of secondary grade teachers after 19.05.1998, their appointment need not be approved.

This position since has been clarified by the Division Bench, it has been accepted by the appellant Department and they issued G.O.Ms.No.155 as stated supra.

12. Insofar as the respondent teachers are concerned, they were appointed well prior to 19.05.1998. This has been found out by the learned Judge in the impugned order itself. When that being so, merely because they were having only different qualification and they did not have secondary grade teacher education qualification, their appointment cannot be rejected. Instead, they could have been sent for short term training and after they successfully completed their training, their appointment could have been approved. Since the same has not been done, these teachers approached the writ Court, where the learned Judge, taking note of the earlier orders, where series of orders were passed by this Court, including various Division Benches of this Court, has ultimately allowed the said writ petitions, stating the following.

" Pursuant to the order passed by the Division Bench G.O.Ms.No.155 dated 03.10.2002 was issued wherein clause xi of the Government Order states that the appointment made after 19.05.1998 by the institutions would not be approved. Admittedly, the petitioner's appointments were made prior to the cut off date. Therefore, at this distance of time stating that prior approval was not obtained from the Department before filling up



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the vacancies, cannot be raised. Further, the petitioners in W.P.Nos.19821 of 2003 etc., batch have been granted the relief and the respondent Department has implemented the order dated 22.01.2013. Thus, taking into consideration of the above facts, the issue involved in these writ petitions is squarely covered by the earlier decisions of this Court, referred supra, which was rendered following the order passed by the Hon'ble Division Bench.

9. Accordingly, the writ petitions are allowed as prayed for. No costs."

13. These factual findings given by the learned Judge cannot be disputed by the appellant Department, as the teachers were appointed well prior to the cut off date of 19.05.1998 and therefore, they are entitled to continue in the said post of secondary grade teachers provided they acquired the short term training, for which they could have been sent.

14. When that being the position, the appellant Department / Government cannot have any specific grievance over the said order passed by the writ Court, which is impugned herein dated 23.12.2014. Therefore, we do not find any error in the order passed by the learned Judge which is impugned herein. As a result, the writ appeals fail and are accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

(R.S.K.,J.) (V.L.N.J.,)
05.07.2023

Index : Yes/No
Neutral Citation / Yes/No
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