



W.P.(MD)No.2579 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2579 of 2023

and

W.M.P.(MD) Nos.2344 & 2345 of 2023

The Correspondent,
St. Josephs Higher Secondary School,
Somarasampettai,
Tiruchirappalli.

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai-600009.

2.The Director of School Education,

College Road,
Chennai-600006.



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3.The Chief Educational Officer

Trichy,

Trichy District.

4.The District Educational Officer,

Trichy,

Trichy District.

5.The Correspondent

R.C. Higher Secondary School,

Cantonment,

Trichy District.

6.S.Jeyaraj

B.T. Assistant (Tamil),

R.C. Higher Secondary School,

Cantonment,

Trichy.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned proceedings of the third respondent CEO in Na.Ka.No.



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7300/A4/Aa4/2022 dated 25.01.2023, quash the same as illegal and void.

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For Petitioner : Mr.M.F.Rooshi Maas
for M/s.Isaac Chambers

For Respondents : Mr.S.Saji Bino - for R1 & R4
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned proceedings of the third respondent CEO in Na.Ka.No.7300/A4/Aa4/2022 dated 25.01.2023.

2. The case of the petitioner is that the petitioner management established and administered by the Congregation of Sisters St.Anne, Trichirappalli, a Society registered under the Societies Registration Act, 1860. The said School was initially established as a High School in the year 1997 and it was upgraded as a Higher Secondary School in the year 2008. Due to retirement of one incumbent Sister G.Rosemary on 31.05.2022, one post of BT Assistant (Tamil) fell vacant in the petitioner School from



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01.06.2022. On 13.01.2023, the third respondent settled staff fixation for the petitioner's School for the year 2022 - 2023. After fixation of staff strength, the third respondent deputed the sixth respondent to the petitioner school in the resultant vacancy vide proceedings, dated 25.01.2023. Challenging the same, the present writ petition is filed.

3. The learned counsel appearing for the petitioner submitted that one post of BT Assistant (Tamil) fell vacant on 01.06.2022 in the petitioner school and the petitioner management is entitled to fill up the vacancy, however, preventing the petitioner management to fill up the vacancy, the 6th respondent who is a surplus teacher was transferred from other unit to the petitioner School, is not sustainable one. Accordingly, he prayed for appropriate orders.

4. Heard the learned counsel on either side and perused the materials available on record.

5. The facts in the present case are not in dispute. Admittedly, in



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the petitioner School, staff strength was fixed on 13.01.2023 and thereafter, one post of BT Assistant (Tamil) was vacant in the petitioner School and in order to fill up the post, there are huge surplus teachers are available in the other unit and already redeployment Government Order was upheld by this Court and pursuant to the redeployment of surplus teachers, the State is entitled to depute the surplus teacher in the petitioner's School vacancy and further the similar issue came up for consideration before the Division Bench of this Court in **Secretary to Government and other Vs. Iruthaya Amali and another** reported in **2021 SCC Online Mad 1285**. The relevant portion is extracted hereunder :

95(f) COMPENDIUM OF SCHEDULE :

(i) Closing of Admission for the purpose of fixation of staff strength - 31st July of that academic year.

(ii) Fixation of staff strength of the school concerned, based on the student strength as on 31st July as per the strength of the pupil updated in the EMIS - 10th August.

(iii) The aforesaid fixation of staff strength of the school shall be intimated to the school on or before



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15th August.

(iv) On receipt of information from the Department, the School concerned shall give its objection if any, based on the teacher-pupil ratio on such fixation of staff strength by 25th of August.

(v) On receipt of such objection, if any, from the school concerned, the final order of fixing the staff strength of the school, with the provisional order for identification and redeployment of excess staff shall be passed by the Department by 5th of September.

(vi) On receipt of such intimation of provisional order on identification and redeployment of excess staff, the school under corporate or joint management, shall act upon to give its consent to the redeployment of excess teacher concerned after keeping the teacher informed, to the Department, by 15th of September.

(vii) On receipt of such reply / intimation from the school concerned, final redeployment order shall be made and communicated to the school from where redeployment is made with a copy marked to the W.A. (MD).No.76 of 2019 etc., batch teacher concerned and also to the needy school to which the deployment is to be made, by 25th September.



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(viii) On receipt of such orders by the teachers who are redeployed, they shall report to the school where they have been redeployed, on or before 30th September.

(ix) After making this redeployment process, still excess staff are available, the Education Department shall take further effort, and those excess teachers still available at the hands of the Education Department to be redeployed to a needy school beyond the corporate management concerned, i.e., to any school located in the same Educational District or Revenue District and even beyond which if still excess staff are available, they can be redeployed to any school beyond the Revenue District of course after getting the choice of such teacher concerned and that shall be completed by 10th October.

(x) Those teachers who got such W.A.(MD).No. 76 of 2019 etc., batch redeployment within the Revenue District or beyond the Revenue District by orders to be issued on or before 10th of October, shall report duty to the School where they have been redeployed on or before 15th of October.

(xi) It is made clear that beyond 15th October of every academic year, no redeployment of teacher shall be made or given effect to."



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6. A perusal of the Division Bench Judgment makes it clear that as per clause (ix) after making this redeployment process, still excess staffs are available, the Education Department shall take further effort, and those excess teachers still available at the hands of the Education Department to be redeployed to the needy School beyond the corporate management concerned, to any school located in the same Educational District or Revenue District and even beyond which if still excess staffs are available, they can be redeploy them to any other School beyond the Revenue District, of course after getting the choice of such teacher concerned and that shall be completed for every year.

7. Applying the said decision, the present redeployment order was passed, transferring surplus teacher from mother unit to petitioner School, which cannot be interfered with. Admittedly, huge salary was paid by the State exchequer for the minority and non-minority aided School and if there is surplus teacher available in the Government hand, necessarily they have to be redeployed to the needy School.



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8. Accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner to challenge the staff fixation order issued by the authority in the manner known to law. No costs. consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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M.DHANDAPANI,J.

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