



W.P.(MD)No.3743 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3743 of 2020
W.M.P(MD).No.3178 of 2020

Nadar High School,
Rep.by its Secretary,
A.Shanmugaraj,
Karisalkulam,
Vilathikulam Taluk,
Tuticorin District-628 907.

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Tuticorin District,
Tuticorin.

3.The District Educational Officer,
Kovilpatti Educational District,
Tuticorin District.

... Respondents



W.P.(MD)No.3743 of 2020

WEB COPY

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent dated 15.11.2019 in proceedings in Na.Ka.No.6080/A3/2019, quash the same and forbear the respondents from declaring the posts of Physical Education Teacher and Craft Teacher (Vocational Stream) as surplus teachers in the petitioner School and consequently, direct the respondents not to disturb the posts of Physical Education Teacher and Craft Teacher in the petitioner School by deployment.

For Petitioner	: Mr.P.Pethu Rajesh
For Respondents	: Mr.J.Ashok, Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records pertaining to the order passed by the second respondent dated 15.11.2019 in proceedings in Na.Ka.No.6080/A3/2019, quash the same and forbear the respondents from declaring the post of Physical Education Teacher and Craft Teacher (Vocational Stream) as surplus teachers in the petitioner School and consequently, direct the respondents not to disturb the post of

2/10



W.P.(MD)No.3743 of 2020

WEB COPY

Physical Education Teacher and Craft Teacher in the petitioner School by deployment.

2. The case of the petitioner is that the petitioner School was originally established as Middle School in the year 1951 and subsequently was upgraded as High School during 1989-1990, vide proceedings dated 25.07.1989. On up-gradation of the petitioner School, five teachers working in the Middle School have been absorbed into the High School vide the proceedings of the third respondent dated 18.12.1990. As per the Government order in G.O.(Ms).No.50, School Education Department, dated 20.01.1995 and the consequential proceedings of the Director of School Education dated 01.02.1995, the petitioner School has been sanctioned with one post of Headmaster, two posts of B.T.Assistant, one post of Physical Education Teacher, one post of Junior Assistant and one post of Office Assistant. Subsequently, based on the Government order in G.O.(Ms).No.100, School Education Department, dated 27.06.2003, the post of Secondary Grade Teacher has been upgraded as B.T.Assistant for the purpose of taking classes for High



W.P.(MD)No.3743 of 2020

WEB COPY

School sections. The Government issued order in G.O.(Ms).No.525, School Education Department, dated 29.12.1997 for fixation of staff strength in Elementary/High/Higher Secondary Schools. The assessment of students-Teacher ratio will be made on 1st August of every year and the Department will issue the staff fixation order for the academic year concerned. While so, the Government issued order in G.O.(Ms).No.266, School Education Department dated 06.07.2012 for the purpose of deployment of surplus teachers to the needy schools. As per the Government orders, there must be minimum five B.T.Assistant Teachers for High School, if the strength of the students is 160 and one teacher should be permitted for every 30 students. Further, it is made clear that there must be one teacher for each subject. However, the said Government order does not refer to any deployment of Physical Education Teacher or Craft Teacher coming under Vocational Stream.

3. Insofar as the petitioner School is concerned, the posts of Physical Education Teacher and Craft Teacher remain to be sanctioned posts as per the staff fixation order issued by the second respondent



W.P.(MD)No.3743 of 2020

WEB COPY

every year. Whereas for the academic year 2019-20, the second respondent has issued staff fixation order dated 15.11.2019, which is impugned in this writ petition, stating that the posts of Physical Education Teacher and Craft Teacher are surplus. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that as per G.O.Ms.No.525, School Education (D1) Department dated 29.12.1997, when the strength in classes VI to X in the High Schools exceeds 250, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Educational Teacher will be sanctioned subject to a maximum of 3. Though the strength of the students is 171 in the petitioner School at the relevant point of time, declaring the post of Physical Education Teacher as well as Craft Teacher as surplus is arbitrary and illegal. As per the decision of the Division Bench of this Court in the case of ***Director of School Education, Chennai and others vs. K.Uma*** reported in ***2010 2MLJ 277***, G.O.Ms.No.525, School Education (D1) Department dated



W.P.(MD)No.3743 of 2020

WEB COPY

29.12.1997, is mandatory and it is not directory. Further, without Physical Education Teacher in the School, no physical activity will be carried out for the students and the Sewing is a skill for encouraging the extra-curricular activities.

5. The learned Additional Government Pleader appearing for the respondents would submit that admittedly, the strength of the students in the petitioner School is very low to the minimum requirement of 250 students to retain the posts of Physical Education Teacher and Sewing Teacher and hence, the teachers working in these two posts in the petitioner School are declared as surplus. There is no exemption to retain the said posts on the ground that it is the only post available in the category in the School, when the strength of the total students fall down below 250. The petitioner is receiving the grant. Grant shall not be allowed to a private school, which fails to maintain even minimum requirement of students strength.



W.P.(MD)No.3743 of 2020

WEB COPY

6. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

7. The facts in the present case are not in dispute. Admittedly, as per G.O.Ms.No.525, School Education Department dated 29.12.1997, when the strength in classes VI to X in the High Schools exceeds 250, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Education Teacher will be sanctioned subject to a maximum of 3. In the present case, the strength of the students in the petitioner School is 171 and therefore, the posts of Physical Education Teacher and Sewing Teacher are declared as surplus. G.O.Ms.No.266, School Education Department, dated 06.07.2012 was issued to regulate the surplus teachers in primary and Higher Secondary School under the private Management. In order to find out the requirement of the teachers in the private Aided Schools, the Government is fixing the Students-Teacher ratio for every year and the Private Management has to increase the strength of the students. It is relevant to point out that all the Aided Schools are receiving grant-in-aid



W.P.(MD)No.3743 of 2020

WEB COPY

from the Government and the Government is also spending huge amount for grant-in-aid. However, there was a force in the argument of the learned counsel appearing for the petitioner that there must be one Physical Education Teacher, if the strength of the students is less than 250 and the same was considered by this Court.

8. In fact, in the present case, the present impugned order has been passed in the year 2019 and now the strength of the students may be increased in the petitioner School. Hence, considering the request made by the learned counsel appearing for the petitioner, this Court permits the petitioner to make a fresh application to the concerned respondent to re-fix the students-teacher ratio, in terms of the judgment of the Hon'ble Division Bench of this Court in W.A.(MD)No.1494 of 2017, within a period of two weeks from the date of receipt of a copy of this order and if such application is made, the concerned respondent shall consider the same and pass appropriate orders within a period of four weeks thereafter.



W.P.(MD)No.3743 of 2020

WEB COPY

9. Accordingly, this Writ Petition is disposed of. No costs.

Connected miscellaneous petition is closed.

08.02.2023

ssb

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

To:

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W.P.(MD)No.3743 of 2020

M.DHANDAPANI,J.

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W.P.(MD)No.3743 of 2020

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