



W.P.(MD)No.3492 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3492 of 2023

and

W.M.P(MD)Nos.3221 to 3223 of 2023

Tamil Nadu Samagra Shiksha Special
Educators' Association for Differently Abled Students
Rep. by its State President
S.Sethuraman, M.Sc., B.Ed.,

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
School Education Department,
Fort St. George,
Chennai – 600 009.

2.The State Project Director,
Samagra Shiksha,
DPI Campus,
College Road,
Nungambakkam,
Chennai – 600 006.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in connection with the impugned



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proceedings passed by him in Na.Ka.No. 5233/Aa8/Oo.Pa.Ka/O.Pa.Ka./2022 dated 28.12.2022 and quash the same as illegal and arbitrary and consequently direct the respondents to fix the pupil-Teacher ratio as per the norms of Rehabilitation Council of India or as per Section 25 of the Right of Children to free and compulsory Education Act, 2009, till implementation of the order passed by the Hon'ble Supreme Court in W.P.(Civil)No.132/2016 dated 28.10.2021 to cater special education to the Children with Special Needs/Disabled Students within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned proceedings issued by the second respondent in Na.Ka.No.5233/Aa8/Oo.Pa.Ka/O.Pa.Ka./2022 dated 28.12.2022 as illegal and arbitrary and consequently, to direct the respondents to fix the pupil-Teacher ratio as per the norms of Rehabilitation Council of India or as per Section 25 of the Right of Children to free and compulsory



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Education Act, 2009, till implementation of the order passed by the Hon'ble Supreme Court in W.P.(Civil)No.132/2016 dated 28.10.2021 to cater special education to the Children with Special Needs/Disabled Students within a stipulated period.

2. The case of the petitioner is that the petitioner is an Association created to protect the rights and interest of differently abled persons. The Government of India enacted several Acts including the Persons with Disabilities (Equal opportunities, Protection of Rights and full Participation) Act, 1995 and the Rehabilitation Council of India Act 1992. Moreover, the educational interest of the differently abled students / children with special needs have also protected by the said Act. The further case of the petitioner is that as per the proposal given by Rehabilitation Council of India, the Government of India directed every State Government to establish Special Schools and appoint Special Educators in accordance with the guidelines / norms framed by the Rehabilitation Council of India and impart education to the Children with Special Needs/differently abled students in an effective manner. As per



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the norms, the special educators, who have done D.Ed., (Special Education) and B.Ed., (Special Education) are alone eligible to impart education to the differently abled students. Accordingly, the members of the petitioner Association are working in the inclusive education under Samagra Shiksha Scheme despite receiving a meagre sum of rupees as salary. As per the guidelines, the pupil-teacher ratio is 10:1 in primary schools and 15:1 in secondary schools and moreover, as per Section 25 of the Rights of Children to free and Compulsory Education Act 2009(RTE Act), pupil-teacher ratio is 30:1 in the primary schools and 35:1 in the secondary schools. While being so, the second respondent vide the impugned proceedings, dated 28.12.2022, directed the Chief Educational Officers of all Districts, to form cluster of differently abled students with a strength of minimum 70 students to maximum 100 students ie., fixing the differently abled students/pupil-teacher ratio as 70:1 or 100:1, which is contrary to the guidelines issued by the Rehabilitation Council of India as well as the RTE Act, 2009. Hence, challenging the order passed by the second respondent, the petitioner has filed this writ petition with the aforesaid prayer.



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3. Though this writ petition has been filed challenging the order passed by the second respondent, however, the learned counsel appearing for the petitioner would submit that, it would suffice, if the second respondent is directed to dispose of the representation of the petitioner, dated 04.01.2023 along with the recommendation made by the Chief Educational Officer, on merits and in accordance with law and within a specified period.

4. The learned Special Government Pleader appearing for the respondents, has no serious objection for such an order being passed by this Court.

5. Considering the limited request made by the learned counsel for the petitioner, this Court, without going into the merits of the matter, directs the second respondent to consider the petitioner's representation, dated 04.01.2023 along with the recommendation made by the Chief Educational Officer and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.



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6. With the above direction, this Writ Petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

22.02.2023

PM

NCC:Yes/No

Index:Yes/No

To

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M.DHANDAPANI, J.

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