



W.A(MD).No.1631 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A(MD).Nos.1631 to 1633 of 2023
and
C.M.P(MD).Nos.12615 to 12617 of 2023**

1.The Chief Educational Officer,
Virudhunagar.

2.The District Educational Officer,
Srivilliputhur-626 125,
Virudhunagar District.

... Appellants in all appeals

Vs.

Mangapuram Hindu Higher Secondary School,
Srivilliputhur,
Virudhunagar District,
Through its Secretary.

... Respondent in all appeals

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent
against the orders dated 18.10.2022 made in W.P(MD).Nos.11448 to 11450 of
2022 by this Court.



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In all appeals

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader

For Respondent : Mr.K.K.Kannan

COMMON JUDGMENT

(Judgment of the Court was made by **D.BHARATHA CHAKRAVARTHY, J.**)

These Writ Appeals are directed against the orders of the learned Single Judge dated 18.10.2022 made in W.P(MD).Nos.11448 to 11450 of 2022.

2. By the said orders, the learned Single Judge allowed the writ petitions filed by the respondent herein on the following terms:

“3. I went through the contents of the impugned order. I am not able to appreciate the stand taken by the first respondent. If there is a sanctioned post and if there is requisite student strength, then obviously the said vacancy must be filled up. Of course, there is merit in the contention of the learned Special Government Pleader that such a vacancy should first be allowed to be filled up by redeploying surplus teacher from elsewhere. But then, the petitioner's counsel would point out that for the last three years and above, the vacancy in question is remaining unfilled. This would obviously affect the interest of the students. Therefore, the respondents are directed to fill up the vacancy in question by redeploying surplus teachers from elsewhere. If within a period of three months, such redeployment is not possible, then it is open to



the writ petitioner to appoint an eligible and qualified teacher in the said vacancy. The impugned order is set aside and the writ petition is disposed of on these terms. No costs."

3. The facts in brief are that the respondent is a private aided School and a vacancy arose in the post of PG Teacher in the year 2021. In compliance of Rule 15(4) of the Tamil Nadu Recognized Private School (Regulations) Rules, the respondent School sought permission of the appellants to fill up the said vacancies. By order dated 01.12.2021, the appellants refused permission to fill up the posts. The reasons mentioned in the said impugned order are that firstly, the School should attempt to fill up the posts by promotion and if there are no eligible candidates, then the posts have to be filled up by re-deployment of surplus teachers found in the District. Aggrieved by the same, the Writ Petitions were filed.

4. Admittedly, there are no eligible persons to be promoted to the said post. Therefore, the learned Single Judge concluded that obviously the said vacancy has to be filled up by direct recruitment. If the surplus teachers are available, they can be re-deployed by the appellants and if not, the respondent School must be permitted to fill up the vacancy.



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5. When the appeals came up for hearing, Mr.D.Sadiq Raja, the learned Additional Government Pleader appearing for the appellants would fairly submit the position that there was no person eligible to be promoted and there was also no surplus PG teacher available in the District. In view thereof, the impugned order has rightly been quashed. However, the learned Additional Government Pleader appearing for the appellants would submit that if the respondent School makes a fresh application seeking permission to fill up the post, the same will be granted by the appellants.

6. We are not in agreement of the same. When the respondent School had duly sought for permission in compliance of Rule 15(4) of the Tamil Nadu Recognized Private School (Regulations) Rules, the same has wrongly been rejected without even considering the position that there was neither any person who is available to be promoted nor there were any surplus teachers. In that view of the matter, when the said orders have been quashed, Rule 15(4) of the said Rules is deemed to have been complied with.

7. In that view of the matter, we are inclined to dispose of these Writ Appeals with the following directions:

(i) the orders of the learned Single Judge dated 18.10.2022 made in W.P(MD).No.11448 to 11450 of 2022 are upheld inasmuch as it quashes the



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orders of the first appellant dated 01.12.2021;

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(ii) The respondent School is deemed to have complied with Rule 15(4) of the said Rules and will be entitled to fill up the vacancy in the post of PG Teacher;

(iii) as and when the respondent School duly fills up the vacancy and sends the same for approval, the appellants shall approve the same in accordance with law.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [D.B.C., J.]
27.09.2023

Index : Yes/No
Internet : Yes
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ssb

JUDGMENT MADE IN
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27.09.2023