



W.P.(MD)No.12015 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.12.2023

CORAM

THE HONOURABLE MR.JUSTICE **R.VIJAYAKUMAR**

W.P.(MD)No.12015 of 2022

The Correspondent,
St. Joseph's Middle School,
Ramnagar, Devakottai 630 303,
Sivagangai District.

... Petitioner

-VS-

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

2.The Director of Elementary Education,
College Road, Chennai 600 006.

3.The District Educational Officer,
Devakottai, Sivagangai District.

4.The Block Educational Officer,
Devakottai, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Staff-Fixation settled by the 4th respondent, Block Educational Officer in O.Mu.No.360/A1/2020 dated



W.P.(MD)No.12015 of 2022

--.08.2021, quash the same and further direct the 3rd respondent, District Educational Officer to approve forthwith the appointment of T.Arockia Mary Felci as Sewing Teacher in the petitioner's school from the date of her appointment i.e., 10.07.2019 and disburse the grant-in-aid towards her salary with effect from the said date.

For Petitioner :Ms.A.Amala
For Respondents :Ms.N.GA.Natraj
Government Advocate

ORDER

The present Writ Petition has been filed by a Correspondent of a minority aided School challenging the impugned order passed by the fourth respondent, wherein, the appointment of a Sewing Mistress to the School has been rejected on the ground that there are surplus Sewing Mistresses in the Schools falling within the corporate management.

2.According to the learned Counsel appearing for the Writ Petitioner, one Mrs.T.Arockia Mary Felci was appointed as a Sewing Mistress on 10.07.2019 in a sanctioned vacancy. The said appointment was sent for approval to the authorities. Under the impugned order, the fourth respondent herein has rejected the said request on the ground that



W.P.(MD)No.12015 of 2022

there are surplus Sewing Teachers in the other Schools falling within the same corporate management. The said order is under challenge in the present Writ Petition.

3.The only issue that arises for consideration is whether a single sanctioned post in an aided school could be declared as surplus, even when the students strength has fallen from the prescribed level.

4.A learned Single Judge of this Court in a judgment in W.P. (MD)No.1352 of 2015, dated 11.04.2018, in paragraph 33, has held as follows:

“33.Considering all these principles as emerged from the judgments cited supra, if the same are fit in the facts and circumstances of this case, it can be easily concluded that the petitioner’s school is having the necessary strength for the purpose of having one special teacher as Sewing Mistress, even though the over all students strength may be less than the prescription made by the Government under the relevant Government Order. Such reduction in strength may exist to the authorities to reduce the staff strength in general teaching area, such as, Secondary Grade Teacher and B.T. Assistants, but, not the special teacher, because the special teacher in Sewing subject is the single post and also the said subject is one of the compulsory subject for the girl students, who are studying VI to VIII standard at the petitioner’s school.”



W.P.(MD)No.12015 of 2022

5.The said judgment was followed by another learned Single Judge of this Court in W.P.(MD)No.1321 of 2020, dated 19.02.2020. Paragraph 6 of the said order reads as follows:

“6.What requires to be noted here is the object of the State to promote the welfare and well being of the school children and when the post itself is a single sanctioned post and it has been held that such surplus post would arise in the school where there is a single sanctioned post, relying upon the minimum prescribed strength of 250 students, as a reason for denying the approval sought for, cannot be appreciated. Effectively what the Department would venture is, to deny the right of education to such girl students, particularly, in a specialized academic field of tailoring, which may be pertinent and essential requirement for a girl student.”

6.The judgment of the learned Single Judge of this Court in W.P.(MD)No.1321 of 2020 was challenged in an appeal by the State in W.A.(MD)No.81 of 2022. The Hon’ble Division Bench was pleased to dismiss the said appeal on 02.03.2022 and in paragraph No.4, it has been held follows:

“4.Having heard learned advocates for the respective parties and having considered the material placed on record, we find that this matter needs to be decided on pure question of fact. It is not in dispute that, the teacher whose approval was asked for was a tailoring teacher. There was only one teacher for that subject. The appointment was made by the school management on the retirement of one teacher looking after that subject. In this factual background, we find that denial of approval to the said appointment by the State Authorities can not be justified in any



W.P.(MD)No.12015 of 2022

manner. Direction by the learned Single Judge in this peculiar facts, does not call for any interference.....”

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7.The learned Government Advocate appearing for the respondents contended that when there are surplus Teachers within the corporate management, the appointment of a new Teacher cannot be appreciated and it cannot be approved.

8.If the issue of surplus Teachers arises, when the students strength comes down in a particular academic year, the other classes may be handled by the general Teachers, namely, Secondary Grade Teachers or B.T.Assisants, as the case may be, by adjusting the work among themselves. However, when a Vocational Teacher is declared as surplus, no other Teacher would be in a position to handle the said subject. Therefore, when a single post is sanctioned for a specialist subject, the same cannot be declared to be surplus in view of falling in students strength. That apart, the issue of surplus, which is pointed out by the authorities is that the students strength in some other schools within the corporate management have fallen down. Even in those schools, it is only a single sanctioned post. Therefore, the presence of those Teachers



W.P.(MD)No.12015 of 2022

in those schools cannot be cited as surplus in order to reject the approval of the present candidate.

9.In view of the judgments of learned Single Judges and confirmed by the Hon'ble Division Bench, as stated supra, the order impugned in the Writ Petition is set aside. The respondent authorities are directed to approve the appointment of Mrs.T.Arockia Mary Felci, as Sewing Mistress with effect from 10.07.2019 with all attendant benefits. The entire exercise shall be completed within a period twelve weeks from the date of receipt of a copy of this order.

10.In the result, this Writ Petition is allowed. No costs.

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

07.12.2023

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W.P.(MD)No.12015 of 2022

To
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State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai 600 009.
- 2.The Director of Elementary Education,
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- 3.The District Educational Officer,
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W.P.(MD)No.12015 of 2022

R.VIJAYAKUMAR, J.

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W.P.(MD)No.12015 of 2022

07.12.2023