



W.P.(MD)No.13566 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.12.2023

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

W.P.(MD)No.13566 of 2023

and

W.M.P.(MD)No.24372 of 2023

The Correspondent,
Sourashtra Co-Edl Higher Secondary School,
110, Kamarajar Salai, Madurai 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 Commissioner of School Education,
College Road, Chennai.

3.The Chief Educational Officer,
Madurai, Madurai District.

4.The District Educational Officer (Secondary Grade),
Melur, Madurai - 625 106.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 3rd respondent Chief Educational Officer to re-fix the staff fixation for the Academic Year 2022-2023 by including one section of English Medium from



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standard VI to IX in the light of the G.O.Ms.No.148 to start 50% English Medium section on par with Tamil medium from the Academic Year 2019-2020 and pass orders on the representation submitted by the school dated 23.05.2023 and 02.06.2023.

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

ORDER

The present Writ Petition has been filed by an aided linguistic minority school seeking a direction to the third respondent to re-fix the staff fixation for the academic year 2022-23 by taking into consideration the English medium section from VI to IX standards.

2.The Government of Tamil Nadu had issued G.O.(Ms)No.148, School Education Department, dated 20.07.2018, wherein, permission was granted to aided schools to start an English medium section subject to the following conditions:

(1)The English medium section should be carved out only from the already approved Tamil medium section;

(2)50% of the sections should be continued in Tamil medium;



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(3)The Government should not incur any additional expenses;

(4)The school should have proper infrastructure and other facilities;

(5)The school should have properly qualified Teachers to conduct English medium section;

(6)The school should collect only the English medium tuition fees, which has been prescribed by the Government; and

(7)No additional fees should be collected from the English medium students.

3.Based upon the said Government Order, the petitioner school has made an application to the District Educational Officer on 03.01.2019 to start an English medium section for VI standard. Considering the said request, permission was granted on 18.03.2020 for starting an English medium section in VI standard for the academic year 2019-20. Thereafter, the students studying in the English medium section got promoted to VII standard. However, the school management has not sought for any prior permission to open an English medium section for the VII standard. This is continued till the current academic year



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2023-24. The students, who had joined VI standard in the academic year 2019-20 are not studying in the X standard in the present academic year.

4.In the staff fixation order for the academic year 2022-23, the authorities have not considered the students studying in the English medium sections of VII to IX standards on the ground that no prior permission has been obtained by the school management for starting English medium sections. Hence, the present Writ Petition has been filed.

5.According to the learned Counsel for the petitioner, once permission is granted to start an English medium section in VI standard, the permission to start English medium section to higher classes is automatic, in view of the fact that the students get promoted to the next classes. The students, who have studying in the English medium section from VII to IX standards have not been taken into consideration, while passing staff fixation order in each one of the academic years. This is likely to make the existing Teachers as surplus Teachers. The learned Counsel further contended that the school is not seeking to enhance the



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staff strength in view of opening of English medium section. However, the existing Teachers should not be rendered surplus. Therefore, she prayed for setting aside the staff fixation order for the academic year 2022-23, so that the students studying in the English medium sections would also get included while arriving at the final strength of the students in the whole school.

6.Per contra, the learned Government Advocate appearing for the educational authorities contended that as per G.O.(Ms)No.148, dated 20.07.2018, whenever a school is seeking to open an English medium section, they cannot seek for any additional staff strength. Therefore, inclusion of those students studying in the English medium section should only be considered as a self financing section and they can never be taken into consideration for fixing the staff strength. Hence, he prayed for dismissal of this Writ Petition.

7.I have carefully considered the submissions made on either side and perused the material records.



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8.It is not in dispute that the authorities have granted permission to the petitioner school for starting an English medium section for VI standard in the academic year 2019-20. Once a permission is granted to start an English medium section for VI standard, it is automatic that for the succeeding years, permission should be granted to the higher standards. Therefore, the contention of the respondent authorities that every year they should seek prior permission is not legally sustainable. In case, if the authorities reject permission in the mid way, the students would be forced to get accommodated in a Tamil medium section. Therefore, it is clear that once the Government has granted permission to start an English medium section for the VI standard, the school need not seek any prior permission for starting English medium sections for the higher classes in the succeeding years.

9.It is the contention of the respondent authorities that no additional staff could be sought for, for starting English Medium section. On instructions, the learned Counsel for the petitioner submitted that they are not seek any additional staff for inclusion of English medium standards in the staff fixation order. It is only their apprehension that in



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case if the students studying in the English medium sections are not taken into account, the staff strength may be rendered as surplus. Once the Government has permitted a school to start an English medium section, that too carving out of the Tamil medium section, it is automatic that the same staff strength have to be maintained even though some of the Teachers are taking classes for English medium sections also. Once the Government permits the carving out of the students, naturally, the staff who are allotted for taking Tamil medium section would get additional work of taking classes in the English medium section also. Therefore, the contention of the Government that the students studying in the English medium section could be treated as a self financing section and they cannot be taken into consideration for fixing the students strength is not legally sustainable.

10.The authorities have filed a counter affidavit. Paragraph 7 of the counter affidavit is extracted as follows:

“7.It is submitted that the Government issued another G.O.Ms.No. 148 School Education (pa.Ka 6(1) department dated 20-07-2018 allowing the aided private schools to start English medium sections. Accordingly orders were issued on the following conditions along with other conditions.

1.English medium sections should be started from among



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the existing Tamil medium sections.

2. There should not any additional expenditure to the government.

Hence it is evident that the Government cannot should any additional expenditure and there will no change in the existing staff fixation as the English medium sections are permitted to be opened from among the existing Tamil Medium sections. It is submitted the Director of school Education permitted the petitioner school to start English medium sections in standards 6 to 10 with the conditions that there should not be any additional expenditure to government and the English medium sections should be started from among the approved Tamil Medium sections by order dated 28-12-2020 vide Mu.Mu.No 057152/G1/E1/2020. The petitioner school has started in its letter dated 03-01-2019 that there will not any addition expenditure and he school will run the English medium section from among the existing staff. It is evident that the school has got permission to start English medium section in standard VI and has not got prior permission for standard VII to 10 and hence the students in English medium sections has not been taken into account. The school has started the english medium section without the prior permission of the Government and accordingly after the school gets permission or ratification from the Director of School Education, the claim of the school will be considered. The school is trying to retain the surplus staff in the guise of English medium sections.”

11.From the said counter, it is clear that the only objection raised on the side of the authorities is that the school has neither obtained prior permission for starting an English medium section in the VII standard nor they have obtained ratification. It is admitted on either side that the authority to rectify the said admission of students is the third respondent herein.



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12. In view of the aforesaid facts, without setting aside the staff fixation order, this Court is inclined to pass the following order:

(1) The third respondent is directed to consider the request of the school management for ratifying the opening of English medium sections from standards VII to IX, in case, if any such request is made by the school management. The said exercise shall be completed within a period of four weeks from the date of receipt of such request from the school management. Based upon such ratification, the authorities are directed to fix the staff strength for the academic year 2023-24.

(2) While issuing staff fixation orders, the authorities are directed to take into account the students studying in the English medium sections for which approval has been granted.



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13. With the above observations, this Writ Petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

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

12.12.2023

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To

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

2. The Commissioner of School Education,
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