



W.P.(MD)No.10753 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.10753 of 2016

and

W.M.P.(MD) Nos. 8332 and 8333 of 2016

Saraswathi Aided Primary School,
No.29,Pandarinathan Sannathi Street,
Karur,
Represented by its Secretary,
M.Saroja,

... Petitioner

Vs.

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

2.The District Elementary Educational Officer,
Karur District,
Karur.

3.The Assistant Elementary Educational Officer,
Karur,
Karur District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.3673/A3/2015 dated 08.2015 (served on 14.12.2015) in so far as Tmt.S.Sheela, Secondary Grade Teacher working in the Petitioner school is concerned and the consequential order issued by 2nd Respondent in Na.Ka.No.3673/Aa3/2015 dated 03.02.2016 and to quash the same.

For Petitioner : Mr.V.Balasubramanian
For Respondents : Mr.V.Omprakash,
Government Advocate

ORDER

This writ petition is filed challenging the impugned order, dated 08.2015 (served on 14.12.2015) and the consequential order, dated 03.02.2016.

2. Heard Mr.V.Balasubramanian, learned counsel appearing for the petitioner and Mr.V.Omprakash, learned Government Advocate, appearing for the respondents. Perused the material documents available on record.



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3. The petitioner is an aided non-minority institution, running a Primary Education School, for standards from 1 to 5. The school was having students' strength of 105 on 31.08.2015 and based on the strength the staff fixation order in the year 2015-2016 was fixed and the school is eligible for four teachers based on the Right of Children to Free and Compulsory Act, 2009 and one post along with teacher was rendered as surplus. Hence, the respondents took steps to deploy the teacher to some other needy school through the impugned order. Aggrieved over the same, the petitioner's school has preferred this writ petition resisting to deploy the surplus teacher to needy school.

4. The contention of the petitioner school is that as per G.O.Ms.No. 525, dated 29.12.1997 and the judgment rendered in *S.Vigila's case* each class should have one teacher and hence the staff fixation order stating that one post as surplus is against the said G.O. and Judgment. Hence aggrieved over the deployment order, the petitioner school has filed this writ petition

5. It is seen that the said G.O.Ms.No.525 dated 29.12.1997 was issued prior to Right of Children to Free and Compulsory Act (in short RTE Act)



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and the said Act was passed in the year 2009. Likewise the judgment rendered in *S.Vigila's case* is on 04.11.2006 and the same is prior to the RTE Act, 2009. The RTE Act was published in the Government Gazette, dated 24.02.2010 and hence, the Act came into effect on 24.02.2010. As per Sections **19 and 25** of the RTE, the schools are entitled to teachers as per the schedule. The sections 19 and 25 are extracted here under:

19. Norms and standards for school.—(1) No school shall be established, or recognised under section 18, unless it fulfils the norms and standards specified in the Schedule.

25. Pupil-Teacher Ratio.—(1) 1 [Within three years] from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Pupil-Teacher Ratio, as specified in the Schedule, is maintained in each school.

6. Section 19 states the schools shall follow the norms and standards prescribed in the schedule. Any school, whether Government or private that does not fulfil the prescribed norms and standards shall do so within a period of three years from the date of commencement of the Act. **Section 25** seeks to provide for maintenance of pupil teacher ratio, by the appropriate government and local authority. As per schedule for students up to 60 students two teachers are allowed.



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For students between 61 to 90, three teachers are allowed. For 91 to 120, four teachers are allowed. For 121 to 200 five teachers are allowed. For above 150 children five teachers with one headmaster post is allowed. For above Two hundred children, Pupil-Teacher Ratio (excluding Head-teacher) shall not exceed forty. In the present case the petitioner's school is having 98 students, the respondents have fixed the school is eligible for four teachers and the same is as per the schedule stated supra and hence, one teacher was rendered surplus. Therefore, this Court is of the considered opinion that the respondents have rightly fixed the number of teachers in the staff fixation order. Hence, the respondents took steps to deploy the surplus teacher to some other needy school through the impugned order and the same is sustained in law.

7. At the time of admission, this Court granted interim order of stay for transfer and the said teacher was continuing in the said post until now. The learned counsel appearing for the petitioner as well as the learned Government Advocate submitted that, as on date the school is having only 60 students and is running with two teachers and the petitioner is continuing in the said post until today based on the interim order.



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8. The respondents have passed the impugned order based on the rules and regulations. Whenever, there is a surplus teacher and therefore, the respondents are empowered to transfer or deploy the surplus teacher to the needy place. The writ petitioner school has resisted such transfer, thereby caused loss to the Government and hence this Court is inclined to impose cost. But the Learned Counsel appearing for the petitioner prayed that cost may not be imposed. Therefore, this Court is warning this school as well as the schools which are unnecessarily challenging the transfer or deployment of surplus teachers and non-teaching staffs, thereby cause loss to the government. This Court hopes that the petitioner school will not indulge in such litigation in future.

9. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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To

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Karur.
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 10753 of 2016**

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