



W.P.(MD).No.7279 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.7279 of 2016
and
W.M.P.(MD).No.6142 of 2016**

P.Selvam

... Petitioner

Vs.

- 1.The Director of School Education (Elementary),
College Road,
Chennai – 6.
- 2.The District Elementary Education Officer,
Virudhunagar.
- 3.The Assistant Elementary Educational Officer,
Rajapalayam,
Virudhunagar District.
- 4.The Secretary,
MN Nadar Primary School,
Melavaragunaramapuram,
Rajapalayam Taluk,
Virudhunagar District – 626 111.

... Respondents



W.P.(MD).No.7279 of 2016

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the entire records connected with the impugned order passed by the second respondent passed in Na.Ka.No.6211/A2/2014 dated 13.07.2015 insofar as deploying the petitioner from the fourth respondent School is concerned and consequent order passed by the second respondent in Na.Ka.No.6211/A2/2014 dated 06.04.2016 and quash the same.

For Petitioner : No Appearance

For R-1 to R-3 : Mr.V.Omprakash,
Government Advocate.

For R-4 : Mr.K.K.Kannan

ORDER

This Writ Petition is filed challenging the order dated 13.07.2015 insofar as deploying the petitioner from the fourth respondent School and consequent order dated 06.04.2016.

2. The respondents have passed the impugned order of deployment, since the petitioner is considered as surplus in the school where he was working. The contention of the petitioner is that the respondents 2 and 3 are not competent authorities to withhold the salary of the petitioner. The power to withhold is with the Joint Director only. The petitioner is working in the aided School



W.P.(MD).No.7279 of 2016

receiving Government salary cannot be deployed to a self-finance School.

Moreover, the respondents have not granted any opportunity to the petitioner.

As per G.O.Ms.No.525 dated 29.12.1997, read with judgment rendered in

Vigila's case reported in 2006 5 CTC 385, the fixation of strength is erroneous.

For all these reasons, the petitioner is challenging the impugned order. The said

School is having standards 1 to 5. There are 5 Secondary Grade teachers and 1

Headmaster post is sanctioned for the said School. For each standard, 1 teacher

is allotted as per G.O.Ms.No.525 read with *Vigila's* case. Therefore, the

respondents cannot state that there is surplus teacher in the school.

3. The contention of the petitioner cannot be accepted, after G.O.Ms.No. 525 and *Vigila's* case judgment, Right to Free Education Act came into effect. Based on the said Act, the ratio is granted for fixing the staff. For every 60 students 2 teachers are allotted and it keeps increasing based on the students' strength. It is not based on for each class. As on the date of judgment rendered in *Vigila's* case and G.O.Ms.No.525 cannot be applicable because of the new Act. Therefore, the claim of the petitioner cannot be accepted. The petitioner being a teacher is duty bound to serve in any school. Therefore, the petitioner cannot have any grievances at all.



W.P.(MD).No.7279 of 2016

4. The learned Government Pleader submitted that for the academic year 2020-2021, again 2 teachers were rendered as surplus. For the subsequent year that is 2021-2022 academic year, 3 teachers have been rendered surplus. In such circumstances, the petitioner ought to obey the deployment order. Based on the interim stay, the petitioner is still working in the fourth respondent School and receiving salary.

5. The respondents are at liberty to consider the issue of surplus for the present academic year and pass a deployment order in accordance to law.

6. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2023

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



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W.P.(MD).No.7279 of 2016

S.SRIMATHY, J.

Nsr

W.P.(MD).No.7279 of 2016

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