



W.P.No.7194 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7194 of 2022 and
W.M.P.No.7215 of 2022

Baby High School
Represented by its Correspondent
K.Gajendran

...Petitioner

-Vs-

1. The Government of Tamilnadu,
Rep. By its Secretary to Government,
School Education Department,
Chennai-600 009.

2. The Commissioner of School Education,
College Road,
Chennai-600 006.

3. The District Educational Officer,
St. Thomas Mount @ Chrompet,
Chennai-600 044.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the third respondent in Na.Ka.No.2717/a3/2019 dated 16.03.2020 and quash the same and sanction the post of Head Master for the petitioner's school.



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For petitioner : Mrs.A.Sumathy
For respondents : Mr.S.Mythreye Chandru,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 16.03.2020 thereby rejected the request made by the petitioner's school.

2. The petitioner got approval for running a middle school with standards 1 to 8 in the year 1963 with permanent recognition and aid from the Government. The Petitioner's school is fully aided by the Government of Tamilnadu and governed by Tamilnadu recognized aided schools Act, 1972 and Rules 1973. While being so, as per the request of the students and parents the management has decided to upgrade the school from Middle School to High School level in the year 2007-2008. Already as per the strength of the students, the said school has got a Head Master and 21 teachers and the Government has recognized the upgradation and the school was upgraded as High School and so classes 9 and 10 were introduced. At



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the time of upgradation the post of Middle School Head Master was in existence and one Mrs.V.Kalpana was working as Head Mistress and aid was granted to the post of Headmistress. After upgradation of High School, the petitioner school is entitled for the post of Head Master. As per G.O.Ms.No.525 dated 29.12.1997 by the School Education (D1) Department not approved the said post i.e., Headmistress for the High School and has degraded the said Kalpana to the post of Tamil Pandit by an order dated 30.08.2007.

3. The learned counsel for the petitioner relied upon the Government Order in G.O.Ms.No. 525 dated 29.12.1997 by the School Education (D1) Department and accordingly when middle school is upgraded as High School, the post of Middle School Headmaster has converted as High School Headmaster. Therefore, the petitioner submitted representation the same was rejected by an order dated 16.03.2020.



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4. On perusal of the counter affidavit filed by the third respondent revealed that the petitioner's school was upgraded as High School in the year 2007 on condition that no grant for ever, for the standards 9 and 10. The standards 1 to 8 are functioning as aided school. Therefore, standards 9 and 10 are functioning as per section 14-A of the Tamilnadu Recognized Private Schools (Regulation) Act, 1973. The said Act was extracted hereunder:

"14A. Grant not payable to new private schools and new class and course of instruction

"Notwithstanding anything contained in this Act or in any other law for the time being in force or in any judgement, decree or order of any Court or other authority, no grant shall be paid to,

(a) any private school established and any class or course of instruction opened in such private school, on or after the date of commencement of the academic year 1991-1992.



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(b) any private school in existence on the date of commencement of the academic year 1991-1992 to which no grant has been paid by the Government immediately before the date of such commencement.

(c) any class or course of instruction in a private school in existence on the date of commencement of the academic year 1991-1992 to which no grant has been paid by the Government immediately before the date of such commencement; and

(d) any class or course of instruction opened on or after the date of commencement of the academic year 1991-1992 in a private school in existence on the date of such commencement."

5. Therefore, the request made by the petitioner is against the said provision. Therefore, when a teacher discharges higher duties in a school which was declared as "No Aid for ever" Payment of salary for the higher duty should be borne by the concerned management".



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6. In view of the above, this court cannot find any infirmity or illegality in the order passed by the 3rd respondent dated 16.03.2020. Therefore, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

26.03.2024

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No
gvn



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