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W.P.No.18763 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 04.07.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN**

**W.P.No.18763 of 2024**

**W.M.P.Nos.20570 & 20572 of 2024**

The Manager  
M.G.R.Aided Primary School  
Tholeeswarapuram  
Thungapuram Post, Kunnam Taluk  
Perambalur District.

... Petitioner

Vs.

1.The Director of Elementary Education  
College Road, Chennai – 6.

2.The District Educational Officer (Elementary)  
Perambalur.

3.The Block Educational Officer  
Veppur, Perambalur.

4.Kalpana

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the 2<sup>nd</sup> respondent in Na.Ka.No.2419/B4/2023 dated 19.12.2023 declaring the post of Secondary Grade Teacher of the Petitioner School as surplus and the consequential impugned order passed by the 2<sup>nd</sup> respondent in Na.Ka.No.2419/B4/2023 dated



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28.06.2024, deploying the 4<sup>th</sup> respondent from the petitioner School and quash the same and consequently direct the 2<sup>nd</sup> respondent to restore the post of Secondary Grade Teacher to the petitioner School.

For the petitioner : Mr.S.N.Ravichandran  
For the respondents : Mrs.S.Mythreye Chandru  
Special Government Pleader  
for RR1 to 3

### **ORDER**

This Writ Petition has been filed challenging the order passed by the 2<sup>nd</sup> respondent dated 19.12.2023 thereby declared that one post of Secondary Grade Teacher as surplus and also the order passed by the 2<sup>nd</sup> respondent dated 28.06.2024, thereby deployed the 4<sup>th</sup> respondent from the petitioner School.

2. It is the case of the petitioner School that it is a primary school and receiving teaching grant from the Government and it is governed by the Tamil Nadu Private School (Regulation) Act and Rules. As per the students strength, from classes 1 to 5 there are one Headmaster and four Secondary Grade Teachers are working in the petitioner School and it is the sanctioned staff strength of the said school.

3. However, as per the proceedings of the 2<sup>nd</sup> respondent dated



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19.12.2023, based on the students strength, staff strength for the academic year

2023 – 2024 has been fixed as one Headmaster and four Secondary Grade

Teachers and found that one Secondary Grade Teacher post as surplus, out of 5.

Therefore, the 4<sup>th</sup> respondent was deputed to Panchayat Union Primary School,

Thungapuram, with effect from 10.06.2024. Thereafter, by the proceedings

dated 28.06.2024, the 2<sup>nd</sup> respondent deployed the 4<sup>th</sup> respondent from the

petitioner School to Pandiyan Middle School, Nalarikai, on the basis of the

student strength. Hence the present Writ Petition.

4. The learned counsel appearing on behalf of the petitioner School would submit that the School committee was approved by the 2<sup>nd</sup> respondent by its proceedings dated 27.02.2020, for the period of three years from 16.02.2020 to 15.02.2023. Thereafter, it was not approved and the 2<sup>nd</sup> respondent forced the petitioner School to pass a resolution to give consent for deployment of the 4<sup>th</sup> respondent from the petitioner School to the other needy school. Therefore, the petitioner School passed a resolution, that too without issuing any notice to the members of the School committee as required under Rule 26 (2) of the Tamil Nadu Private School (Regulation) Rules, 2023. Thereby, the petitioner School had given consent for deployment of the 4<sup>th</sup> respondent. Subsequently, the 2<sup>nd</sup> respondent fixed the staff strength vide proceedings dated 19.12.2023, based on



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the students strength as on 01.08.2023, as per the G.O.Ms.No.525 dated 29.12.1997. The said fixation is contrary to the Full Bench Judgment of this Court in ***Director of Elementary Education and Ors. Vs. Tmt.S.Vigila and Anr***, reported in ***(2007) 1 MLJ 199***. As per the said Judgment, the minimum strength of teachers required obviously should not fall below the number of standards / sections in a school. Ultimately, if there are five standards, the minimum number of teachers should be five, out of which one would be the Headmaster. Therefore, the very fixation of staff strength by the 2<sup>nd</sup> respondent vide impugned order dated 19.12.2023 is contrary to the Judgment of the Full Bench and the 2<sup>nd</sup> respondent ought not to have deployed the 4<sup>th</sup> respondent from the petitioner School.

5. On instructions from the respondent Department, the learned Special Government Pleader would submit that the petitioner School's students strength is 96, in which, class 1 has 13 students, class 2 has 13 students, class 3 – 21 students, class 4 – 25 students and in class 5 – 24 students. That apart, the petitioner School passed the resolution dated 26.06.2014, thereby resolved to deploy the 4<sup>th</sup> respondent to some other school. Even the 4<sup>th</sup> respondent also consented to join in the Pandiyan Middle School, Nalarikai. Accordingly, the petitioner School has also rendered the 4<sup>th</sup> respondent as surplus teacher, on the



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basis of the principles laid down by the Hon'ble Division Bench of this Court in

W.A (MD) No.76 of 2019 dated 31.01.2022. The Government had also passed the order in G.O.Ms.No.14, School Education Department dated 13.01.2023 thereby notified new Tamil Nadu Private School Regulation Rules (hereinafter referred to as the TNPSR Rules, 2023'), 2023. Rule 32 of the TNPSR Rules, 2023 states about the staff fixation and deployment of surplus staff on retrenchment in an aided private school. Accordingly, the strength of the staff of every aided private school shall be fixed based on the strength of the pupils' as on 1<sup>st</sup> day of August of every academic year. The requirement of each aided private school shall be assessed separately by treating such school as a unit for the purpose of fixing the strength of the staff. The surplus staff so identified shall be the junior most staff in that school as per the rules. Now, the 4<sup>th</sup> respondent is deployed to other school for which the petitioner school by a resolution consented for her deployment. In fact, the 4<sup>th</sup> respondent also expressed her willingness to go and join in the new school.

6. In view of the above, this Court finds no infirmity or illegality in the orders passed by the 2<sup>nd</sup> respondent and accordingly, this Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

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Index : Yes/No

Internet : Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes/No

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**G.K.ILANTHIRAIYAN, J.,**

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