



W.A.(MD)No.844 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

W.A(MD)No.844 of 2024

1.The State of Tamil Nadu,
represented by its Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.

2.The Director of Elementary Education,
College Road, Chennai – 600 006.

3.The District Educational Officer,
Devakottai, Sivagangai District.

4.The Block Educational Officer,
Devakottai, Sivagangai District.

... Appellants

VS

The Correspondent,
St.Joseph's Middle School,
Ramnagar, Devakottai – 630 303,
Sivagangai District.

...Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 07.12.2023 passed in W.P(MD)No.12015 of 2022.



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For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader

For Respondent : Ms.A.Amala

JUDGMENT

(Judgment of this Court was delivered by **G.ARUL MURUGAN, J.**)

This Writ Appeal is filed challenging the order, dated 07.12.2023 in W.P.(MD)No.12015 of 2022, whereby, the Writ Petition was allowed directing the appellants to approve the appointment of a Teacher, who was appointment as Sewing Mistress by the Writ Petitioner School with effect from 10.07.2019.

2.The brief facts involved in the appeal is that the Writ Petitioner's School, namely, St.Joseph's Middle School, Ramnagar, Devakottai, Sivagangai District, has one sanctioned full time Sewing Mistress post. Due to transfer of Rev.Sr.Josephine Mahimai Mary to another School, the post fell vacant on 06.07.2019 and due to the vacancy created in the sanctioned post, one Tmt.T.Arockia Mary Felci was appointed as Sewing Teacher with effect from 10.07.2019. The Writ Petitioner School submitted a proposal to



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the fourth appellant seeking for approval of the appointment and there were certain communications in this regard. Ultimately, by order, dated 27.08.2021, the fourth appellant rejected the proposal on the ground that there are surplus of Sewing Teachers in the other Schools run by the management and the strength of the girl students has to be above 250. Aggrieved by the rejection, the Writ Petitioner School had preferred the Writ Petition and the Writ Court by following the judgment passed in W.A.(MD)No.81 of 2022, and also the other orders passed by this Court, set aside the impugned order and directed the authorities to approve the appointment. Challenging the said order, the Government has preferred the above appeal.

3.The learned Additional Government Pleader appearing for the appellants contended that the Government had sanctioned Sewing Teachers apart from the regular Teachers only in the Government School, which have the strength of more than 250 girl students through G.O.Ms.No.132, School Education, dated 27.04.1998. Only that benefit was extended to private aided School vide G.O.Ms.No.104, School Education, dated 12.07.2002 and therefore, no vacancy of Sewing Teachers could be filled up, when the



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strength of the girls students falls below 250 and therefore, any appointment made in breach of the Government Orders, wherever, the strength of the girl students fall below the strength fixed by the Government, then the approval cannot be granted against the policy decision of the State.

4.Further, the learned Additional Government Pleader contended that as there are surplus Teachers available, the Respondent School was not right in filling up the vacancy by appointing a Sewing Teacher and only on that ground, the approval was rejected and therefore, the order passed by the learned Single Judge by allowing the Writ Petition directing to approve the appointment cannot be sustained, he contended.

5.Ms.A.Amala, learned Counsel for the respondent submitted that the issue in respect of granting approval for the appointment of the Sewing Teacher made in the Schools, where the strength of the girl students falls below 250, has been decided in several cases and relied on the order passed by this Bench, dated 15.04.2024 in W.A.(MD)No.675 of 2024 and sought for dismissal of this appeal.



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6.Heard the learned Counsels on either side and perused the materials available on record.

7.When the similar issue in respect of the approving the appointment of Sewing Teacher in a sanctioned post, came up for consideration and by order, dated 15.04.2024 in W.A.(MD)No.675 of 2024, this Court passed the following order:

“8.The post of Pre-Vocational Instructor is a stand alone post, that has been sanctioned for the second respondent School and that the single post in the subject Sewing is compulsory for the girl students. Without a single Teacher, the girl students cannot be thought in the said subject. Even when there is any vacancy in staff fixation strength, it can be done only in respect of Teachers for general subjects and that it could be adjusted between Secondary Grade Teacher, BT Assistant and PG Assistant, but, however, in so far as the special Teachers are concerned, particularly, like the post of Sewing Teacher, Physical Instructor and so on, these posts are sanctioned only due to the fact that atleast single Teacher is compulsorily required to teach the students on the special subjects. Therefore, the contention that since students strength had fallen below 250 in number and therefore, even the single post could be rendered as surplus, cannot be accepted for the simple reason that without any Teacher for the special subjects, the girl students, who are studying in the School, cannot be thought, which has been taken note of by several orders by the other Division Benches and invariably directions have been issued to the State to approve those posts, which has been filled up in the sanctioned post.

9.In fact, in a similar situation, where the approval of appointment was rejected on the ground that the strength of the School has fallen below 250 students, a learned Single Judge, by



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order, dated 19.02.2020 in W.P.(MD)No.1321 of 2020, allowed the Writ Petition directing the appellants to approve the appointment on the ground that when the post itself is a single sanctioned post, denying approval on the ground that the post has been declared as surplus and the students strength has fallen below 250, cannot be sustained. The State had preferred appeal in W.A(MD)No.81 of 2022 and the Division Bench, by order, dated 02.03.2022 was pleased to dismiss the appeal by observing that the post, which was sought to be approved, was for Tailoring Teacher and the appointment was made by the School in the sanctioned post on the retirement of one Teacher, who was working in that post. The learned Judge has allowed the Writ Petition, which is assailed in the present Writ Appeal by relying on the judgment of the Division Bench referred supra, which cannot be found fault with.

10.In yet another Writ Appeal in W.A(MD)No.1207 of 2016, in the case of **The State of Tamil Nadu and others vs S.Ranganayagi and another**, the Division Bench, by order, dated 23.08.2016, also dismissed the appeal preferred by the State by holding that even though the student strength fallen below 250, but, however, when the post to which the Teacher has been appointed, is a sanctioned post and when the vocation training, which is a special subject, is sought to be imparted relates to Tailoring, which better suits the girl students to enhance their employment capabilities in the later part of their life, which is a wise policy of the State in view of the welfare and wellbeing of the girl child, which is a paramount consideration in the case of this nature, the order has been passed.

11.Further, another Division Bench in W.A.(MD)No.1090 of 2021, dated 15.06.2021, in the case of **The State of Tamil Nadu and others -vs- V.Shyni**, dismissed the appeal preferred by the State by holding that due to the importance of the physical education being imparted to the students and assuming that there is a fall in students strength, it cannot be justifiable and reasonable to declare the single post of Physical Education Teacher as surplus on the ground that there is a fall in students strength.



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12.In the instant case, when admittedly, the first respondent has been appointed as Pre-Vocational Instructor/Sewing Teacher in the stand alone post that too in the vacancy that arose due to the retirement of erstwhile Teacher in the sanctioned post, the special Teacher for the Pre-Vocational Instructor cannot be rendered as surplus only on the ground that the students strength has fallen short of 250, when the subject of Sewing has to be necessarily thought for the girl students for their avocation of life and particularly, when the earlier Writ Petition has been allowed by quashing the order, which was passed rejecting the approval, necessarily the present impugned order passed on the very same grounds cannot be sustained, which has been rightly interfered with by the learned Judge by taking note of the several orders passed by other Division Benches.

13.For all the above reasons and further when the Government had thought it fit to comply with the orders in other cases and the posts of Special Teachers have been granted approval, the present Writ Appeal preferred by the State cannot be sustained and the order passed by the learned Judge needs no interference at the hands of this Division Bench. Accordingly, this Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.”

8.Admittedly, the first respondent School had appointed one T.Arockia Mary Felci as Sewing Mistress on 10.07.2019 in the sanctioned vacancy. When the proposal for seeking approval of the appointment was submitted by the first respondent School, the fourth respondent has rejected the proposal on the ground that there are surplus Sewing Teachers in other Schools, which has been declared as surplus as students strength has fallen



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below the prescribed level. The learned Judge rightly by taking note of the orders passed by the Division Bench had allowed the Writ Petition and directed the authorities to approve the appointment of the Teacher appointed by the first respondent School. We do not find any fault with the orders passed by the Writ Court, which has been passed following the decision arrived at by the Division Bench. In view of the same, the order of the Writ Court needs no interference and accordingly, the Writ Appeal is dismissed. However, there shall be no orders as to costs.

[R.S.K., J] & [G.A.M., J]
05.06.2024

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

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Judgment made in
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