



W.A(MD)No.31 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 08.01.2024

PRONOUNCED ON : 28.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

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and
C.M.P(MD)No.457 of 2020

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Joint Director of School Education,
(Higher Secondary), College Road,
Chennai-600 006.
- 4.The Chief Educational Officer,
Thanjavur District, Thanjavur.
- 5.The District Educational Officer,
Thanjavur, Thanjavur District.

....Appellants/Respondents

Vs.



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The Correspondent,
Blake Higher Secondary School,
Manambu Chavadi,
Thanjavur District-613 001.

...Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order, dated 06.02.2019 passed in W.P(MD)No.21005 of 2016.

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

For Respondent : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The respondents in the writ petition are the appellants.

2. The writ petitioner school is an aided minority educational institution. On 18.11.2015, the 4th respondent in the writ petition had issued a staff fixation order for the said school, wherein the post of 4 PG Assistants, namely English, Tamil, Physics and Chemistry were rendered as surplus. On 19.12.2015, the school management had addressed a



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communication to the 4th respondent in the writ petition seeking to restore the said 4 posts. The said request was rejected by the 4th respondent by an order, dated 22.12.2015. Consequently, an order was passed by the 1st respondent in the writ petition resuming the post of 3 PG Assistants, namely English, Tamil and Chemistry to the common pool. These three orders, namely orders, dated 18.11.2015, 22.12.2015 and 20.01.2016 were challenged by the school management in W.P(MD)No.21005 of 2016. The writ Court after considering the submissions on either side, had allowed the writ petition. Challenging the said order, the present writ appeal has been filed by the respondent authorities.

3. Contentions of the learned Additional Government Pleader appearing for the appellants are as follows:

(i) As per G.O.Ms.No.525, School Education Department, dated 29.12.1997, 8 PG teachers for a Higher Secondary School with minimum of two groups will be sanctioned. The school will be entitled to an additional post only if the work-load of a particular teacher exceeds 24 hours per week. That apart, an existing standard could be bifurcated and



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additional section could be formed only when the strength exceeds 60 and so on in the slab of 40. He further contended that as far as language subjects are concerned, the Post Graduate Assistants who are taking classes in the main stream alone will handle the language classes for vocational stream students also.

(ii) The learned Additional Government Pleader appearing for the appellants further contended that as per G.O.Ms.No.46 School Education Department, dated 14.05.2004, number of periods per week for each one of the subjects in the higher secondary course for the academic stream as well as for the vocational stream have been declared. Therefore, according to the learned Additional Government Pleader appearing for the appellants, unless the workload of a teacher of a particular subject exceeds the limit fixed under the Government Order, an additional post cannot be granted. When the students' strength falls below the minimum level, naturally a post would be rendered surplus. In cases, where a teacher is already working in the surplus post, he / she would be redeployed. If the post is vacant without a teacher, the post would be resumed by the educational authorities to the common pool.



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(iii) He further contended that the writ Court had erroneously arrived at a finding that the petitioner school is having 4 groups. Only the Tamil and English are common to all the 4 groups. As far as the subject of Physics and Chemistry are concerned, they are restricted to only 2 groups (Maths and Pure Science). He further contended that as far as the language subjects, namely Tamil and English are concerned, there cannot be any impediment for clubbing the English medium and Tamil medium students together when the strength of the class has not exceeded 60. The writ Court ought not to have gone by simple arithmetic that for 2 groups, 8 PG Assistants have to be appointed and therefore, for 4 groups, 16 teachers have to be appointed.

(iv) He further contended that though the students' strength has gone up in the relevant academic year to a certain extent, still the posts of one English, Tamil, Physics and Chemistry have become surplus. Therefore, the finding of the writ Court that just because the strength of the school has got increased by few students, that does not mean that there would not be any surplus teachers. Whether a particular post become surplus or not, depends upon the students' strength, groups,



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medium of instruction, academic or vocational stream and the work-load of a particular subject. Therefore, the writ Court was not right in observing that the number of teachers are directly connected to the strength of the students.

(v) He further contended that as far as the language subjects, namely Tamil and English are concerned, the Math group Tamil medium students and English medium students could be clubbed together. The Pure Science group students will form a single section. Arts and Vocational group students could be clubbed together. After clubbing, none of the classes will exceed the strength of 60. Similarly, in the 11th standard, the Math Tamil medium sections and Pure Science Tamil Medium section students could be clubbed together. The Pure Math English medium students, Arts and Vocational students could be clubbed together. Even then the strength will not increase beyond 60 for each class. Based upon the work-load, the English as well as the Tamil Teacher will take just 20 classes per week. However, they are expected to take 24 classes per week as per Government norms.



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(vi) He further contended that as far as Physics and Chemistry subjects are concerned, there are just 14 students in 11th standard English medium and just 10 students in 12th standard English medium. The Tamil medium Math group students could be clubbed with Tamil medium Science group students, which would result in 77 students in the 11th standard. In the 12th standard, the Tamil medium Math group students and Tamil medium pure Science students can be clubbed together, which would result in 55 students. Each class would have 7 periods of Physics and Chemistry each. Therefore, that would result in just 28 hours for a Physics teacher and Chemistry teacher. Therefore, the authorities were right in declaring one post in Physics and Chemistry as surplus. Hence, he prayed for allowing the writ appeal.

4. Contentions of the learned counsel appearing for the respondent are as follows:

(i) Even as per the counter filed by the respondent authorities before the writ Court, the school is running 4 groups, out of which, one of them is a Vocational group. The English medium and Tamil medium sections have to be taught separately and they cannot be clubbed



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together. The authorities are attempting club the 11th and 12th students together to achieve the total strength of students for passing staff fixation order.

(ii) He further contended that as per G.O.Ms.No.525, dated 29.12.1997, for the Higher Secondary Courses, the staff strength is not based upon the students' strength, but it depends upon the groups, which are offered by the school. As per the said Government Order, for 2 groups, 8 PG Assistant posts are sanctioned. When there are 4 groups, the school is entitled to have 16 PG Assistant posts. Therefore, the authorities are not right in relying upon the student' strength for fixation of staff in the Higher Secondary Courses.

(iii) He further contended that as far as the elective subjects like Physics and Chemistry are concerned, each class should have 7 periods a week for each one of the subjects. Therefore, Physics and Chemistry teachers would have to take more number of classes than the language teachers. It is not possible to club the Physics and Chemistry students in a particular class considering the fact that they have to be compulsorily taken for lab.



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(iv) He further contended that the present impugned order of staff fixation is for the academic year 2015-16. The students' strength has increased in the said academic year when compared to 2014-15. When the students' strength has got increased, the question of declaring certain posts as surplus is not legally sustainable. He further relied upon the time table in respect of the aided sections to fortify his submission that in fact the school requires more number of PG Assistants than the sanctioned posts. Hence, he prayed for sustaining the order passed by the writ Court.

5. We have carefully considered the submissions made on either side and perused the material records.

Discussion:

6. A perusal of the grounds in the writ affidavit discloses that the petitioner has contended that the impugned staff fixation order is in violation of the norms laid down in G.O.Ms.No.525, School Education Department, dated 29.12.1997. The authorities are also relying upon the said Government Order for passing the present impugned order. Therefore, this Court finds it appropriate to extract the clause 5 (iv) of



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the said G.O for easy understanding of the facts in dispute.

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“5. IV. HIGHER DECONDARY SCHOOLS (11th and 12th Standards)

a) The norms will be 8 post-Graduate teachers for a Higher Secondary School with a minimum of two groups as follows:

- | | | |
|-------------------------|----------|-----------------------------------|
| <i>(i) For 2 Groups</i> | <i>-</i> | <i>6 Post-Graduate Assistants</i> |
| <i>(ii) For English</i> | <i>-</i> | <i>1 Post-Graduate Assistant</i> |
| <i>(iii) For Tamil</i> | <i>-</i> | <i>1 Post-Graduate Assistant</i> |

b) Additional post of Post-Graduate Assistants will be sanctioned based on work-load i.e. 24 hours of teaching per week.

c) Regarding bifurcation of a standard, additional section will be formed when the strength exceeds 60 and so on in the slab of 40 as in the case of High Schools.

d) For Vocational stream, 2 posts of teachers (full time) will be sanctioned irrespective of the number of courses.

e) The Post-Graduate Assistant for languages in the main stream will handle the language classes of Vocational stream students also.

f) For schools with a strength of over 400, one post of Physical Director will be given by upgradation of existing post of Physical Education Teacher.”



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7. The 4th respondent in the writ petition has filed an additional counter before the writ Court. Paragraph No.2 of the said additional counter reveals the number of groups, students' strength and medium of instruction of the total number of students in the Higher Secondary course of the petitioner school. The same is extracted as follows:

“2. The petitioner school is a minority and aided school comes under the Corporate management of CSI Diocese in Tanjavoor. The school is the Higher Secondary School which have 4 aided groups as follows:-

*(a) 103 - Physics, Chemistry, Maths, Biology + Language
(Maths Group)*

Both English Medium and Tamil Medium.

Tamil Medium Strength - XI -34

XII -28

English Medium Strength - XI -14

XII -10

Total 86

*(b) 208 - Physics, Chemistry, Botany, Zoology + Language
(Pure Science)*

Tamil Medium Strength - XI -43

XII -27

Total 70



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(c) 404 - History, Geography, Economics, Political Science +
Language (Arts Group)

Tamil Medium Strength - XI -29

XII -25

Total 54

(d) 462 - Auditing and Accountancy, Economics, Office
Management + Language (Vocational Group)

Tamil Medium Strength - XI -18

XII -22

Total 40

8. 4 PG Assistants, namely English, Tamil, Physics and Chemistry have been declared as surplus under the impugned staff fixation order. As far as the language subjects, namely English and Tamil are concerned, they are common to all the 4 groups which are mentioned above. At the relevant point of time, there were only 250 students in the Higher Secondary course in the said school.

9. English and Tamil:

(i) A perusal of G.O.Ms.No.525 reveals that an additional section could be formed only when the students' strength exceeds 60. As long as



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students' strength does not exceed 60, the students belonging to different medium of instruction or stream could very well be clubbed together for language subjects which are common to all of them.

11th Standard:

(a) *Both English Medium and Tamil Medium (Math Group)*

Tamil Medium Strength - XI -34

English Medium Strength - XI -14

Total 48

(b) *Arts Group + Vocational Group*

Arts Group - XI -29

Vocational Group - XI -18

Total 47

Therefore, in 11th standard, there will be 3 sections alone for English and Tamil subjects. As per G.O.Ms.No.46, School Education Department, dated 14.05.2004, language subjects should be taught for 4 periods per week. For these 3 sections put together, there will be just 12 periods.



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(ii) 12th Standard:

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(a) *Tamil Medium(Math Group + Science Group)*

Math Group - *XII* -28

Science Group - *XII* -27

Total *55*

(b) *Math Group (E nglish Medium) + Arts Group + Vocational Group*

Math Group (English Medium) - *XII* -10

ArtsGroup - *XII* -25

Vocational Group - *XII* -22

Total *57*

Therefore, there will be only 2 sections for English and Tamil in the 12th standard. Each class would have 4 periods per week and therefore, 8 periods have to be allotted for English and Tamil each for the 12th standard students.

(iii) As per G.O.Ms.No.525, School Education Department, dated 29.12.1997, the PG Assistant for languages in the main stream alone have to handle the language classes for Vocational stream students also.



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Therefore, when all the four groups are put together, the total number of periods per week for English and Tamil would be 20 periods each. As per Government norms, a PG Assistant language teacher is expected to take 24 classes. Under the impugned staff fixation order, one PG Assistant for English and Tamil is retained and one English and Tamil PG Assistant teachers have been declared surplus. Therefore, this Court does not find any error whatsoever in the staff fixation order with regard to the language subjects, namely English and Tamil.

10. Physics and Chemistry

(i) As per G.O.Ms.No.46, dated 14.05.2004, the elective subjects, namely Physics and Chemistry have to be taught for 7 periods per week. These 2 subjects are offered only in the Maths Group and Science group. Therefore, the students in these 2 groups alone have to be taken into consideration.

(ii) 11th Standard:

(a) *Tamil Medium(Math Group + Science Group)*

Math Group - *XI* -34

Science Group - *XI* -43

Total 77



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(b) In English medium, there are only 14 students.

(iii) 12th Standard:

(a) *Tamil Medium(Math Group + Science Group)*

Math Group - *XII* -28

Science Group - *XII* -27

Total -----
55

(b) There are just 10 students in the English medium.

(iv) Except in one section, all other sections will be having less than 60 students. In one of the sections after clubbing, the students' strength would be 77. As per G.O.Ms.No.525, additional section could be formed when the students' strength exceeds 60 and so on in the slab of 40. Unless the excess number of students exceed 40, the question of sanctioning an additional PG Assistant post would not arise. From the above discussion, it is clear that there would be 4 sections for Physics and Chemistry in the 11th and 12th standards put together. Each one of the sections would have 7 periods per week, which would result in 28 hours per week for a Physics and Chemistry teacher. As per Government norms, a PG Assistant teacher is expected to take classes for 28 hours per week and therefore, one PG Assistant for Physics and Chemistry would



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be enough to take classes. The authorities were right in declaring the rest of the posts as surplus.

11. The writ Court without considering the fact that all the 4 groups of students could be clubbed together for the language classes, has arrived at a finding that by simple arithmetic, 4 groups would require 16 PG Assistant teachers. The writ Court has also not considered the fact that unless the students' strength exceeds 60, the question of creating a new section or sanctioning of a new post would not arise. The school is running with less than 25 students in 5 sections. Therefore, appointing a separate PG Assistant teacher for those sections would not arise. The school is expected to club the students together till it exceeds 60 for the subjects, which are common to those students. Without conducting such an exercise, the school management cannot expect the authorities to sanction post for each one of the sections. The sanctioning of a PG Assistant post not only depends upon the number of groups, it also depends upon the students' strength (for the purposes of clubbing together), medium of instruction and the work-load that is allotted to each one of the teachers. Even though the students' strength might have



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got increased from the previous academic year, that has not increased to such an extent to retain additional posts of PG Assistants.

12. In view of the above said deliberations, we are inclined to set aside the order of the writ Court and sustain the orders impugned in the writ petition. Accordingly, this Writ Appeal stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

(D.K.K.J.,)

(R.V.J.,)

28.02.2024

Index :yes

Internet :yes

NCC :Yes/No

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Pre-delivery Judgment made in

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