



W.P(MD)No.1366 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.1366 of 2014

The Secretary,
Rama Palanivelsamy Middle School,
Bodi-Meenakshipuram,
Bodinaickanoor Taluk,
Theni District.

...Petitioner

Vs.

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

2.The District Elementary Educational Officer,
Theni District,
Theni.

3.The Assistant Elementary Educational Officer,
Bodinaickanoor Taluk,
Theni District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus calling for the records, pertaining to Na.Ka.No. 1020/A5/2013, dated 29.04.2013, passed by the 2nd respondent and quash the same as unlawful and illegal and thereby directing the



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respondent No.3 to make inspection in the month of August in the academic year and basing upon the same, the fixation of the staff strength of the petitioner school has to be fixed in the succeeding month of September.

For Petitioner : Mr.F.X.Eugine

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.S.Shaji Bino
Special Government Pleader

ORDER

This Writ Petition has been filed to quash the order dated 29.04.2013 passed by the 2nd respondent and for a consequential direction to the 3rd respondent to make inspection in the month of August in the academic year and on the basis of the same, the fixation of the staff strength of the petitioner school may be fixed in the succeeding month of September.



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2. The petitioner is the Secretary of Rama Palanivelsamy Middle School. In order to decide the Teachers' strength, an inspection was conducted by the 3rd respondent on 05.08.2013 and Teacher-Student strength was noted. As per the report of the 3rd respondent, the 2nd respondent/the District Elementary Educational Officer, Theni, has passed the impugned order fixing the student-teacher ratio and has also deployed some of the teachers as excess.

3. The learned counsel for the petitioner submits that by passing the impugned order, the 2nd respondent has declared three Teacher posts as excess and deployed three Teachers to another school, which is not correct. The learned counsel for the petitioner further submits that student-teacher ratio has to be fixed for the relevant period only as per G.O.Ms.No.525, (Education) dated 29.12.1997, however, in this case, it was not followed. It is his further submission that the teacher's strength in the private school has to be fixed only after conducting an inspection and the orders, if



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any, ought to have been passed in the month of August itself. Here, in this case, the order was passed on 29.04.2013, which reached the petitioner only on 24.10.2013, however, inspection was made on 05.08.2013. The impugned order does not disclose the date of inspection, based on which assessment has been made. On that ground, the learned counsel prays to quash the impugned order.

4. Mr.Baskaran, learned Additional Advocate General, assisted by Mr.S.Shaji Bino, the learned Special Government Pleader submits that as per the Tamil Nadu Private Schools (Regulation) Rules, 2023, staff strength of every private school is being fixed based on the students strength as on the 1st day of August of every year and deployment of the surplus teachers is made as per the guidelines / executive orders issued by the Director of School Education / Director of Elementary Education from time to time.



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5. The learned Additional Advocate General also submits that the staff fixation is done based on the student-teacher ratio every year. If there are surplus teachers available in Government Aided Schools and are not deployed to the schools that need them, it is not only detrimental to the education of students in the school where there is a need for teachers but also a waste of Government resources as they are paid salary by way of grant in the sanctioned post without any allocation of work. Therefore, the Education Department deploy these surplus teachers to schools where they are actually needed to benefit both the students and the staff. If the educational authority of the private aided schools fails to deploy the surplus teachers to the schools where need arises, as prescribed in the Tamil Nadu Private Schools (Regulation) Rules, 2023, departmental disciplinary action under the Tamil Nadu Civil Service (D & A) Rules will be initiated against the erring officials in this regard and hence, the impugned order passed by the 2nd respondent needs no interference by this Court. Hence, the learned Additional



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Advocate General prays for dismissal of this Writ Petition.

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6. This Court considered the rival submissions made on either side and perused the materials available on record.

7. The staff fixation as per the student-teacher ratio is required to be made every year as per Rule 32 of Tamil Nadu Private Schools Regulations Rules 2023. Rule 32 is extracted herein under:

"32. Staff fixation and deployment of surplus staff on retrenchment in an aided private school:- The following norms shall be followed in the fixation of the strength of the staff based on the strength of the pupils studying in the standards/sections for which grant has been paid by the Government prior to the Academic Year 1991-1992 and the consequential deployment of the surplus staff,-

A. Staff fixation- (1) The strength of the staff of every aided private school shall be fixed based on the strength of the pupils as on the 1st day of August of every academic year.

(2) The requirement of each aided private school shall be assessed separately by treating each school as a 'unit'



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for the purpose of fixing the strength of the staff.

(3) The posts sanctioned to an aided private school prior to the academic year 1991- 1992 and the strength of the staff fixed based on the strength of the pupils as on the 1st day of August of the academic year in which the fixation is done, whichever is less shall be the norms for fixing the strength of the staff of that academic year.

B. Deployment of surplus staff,-(1) The District Educational Officer concerned in respect of Primary and Middle schools, the Chief Educational Officer concerned in respect of High and Higher Secondary schools and the Joint Director concerned in respect of Anglo-Indian schools shall fix the strength of the staff based on the strength of the pupils updated in the Educational Management Information System (EMIS) as on the 1st day of August of every academic year and shall complete the assessment process on or before the 12th day of August of that academic year.

(2) The staff fixation statement along with the list of surplus staff identified shall be forwarded to the Secretary of the school committee or the management of the school concerned on or before the 15th day of August



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of that academic year."

(3) The Secretary of the school committee or the management of the school, as the case may be, shall explore the possibility of accommodating the surplus staff against any eligible vacant post in any other aided school under the same educational agency and within the Revenue District and send the report to the concerned District Educational Officer in respect of Primary and Middle schools, the Joint Director concerned in respect of Anglo- Indian schools and the Chief Educational Officer concerned in respect of High and Higher Secondary Schools by the 22nd day of August of that academic year. The concerned District Educational Officer or the Joint Director or the Chief Educational Officer, as the case may be shall thereafter issue deployment orders to the Secretary of the school committee or the management of the concerned school from and to which surplus staff shall be deployed, for accommodating those surplus staff within the Revenue District on or before the 31st day of August of that academic year.

(4) If surplus posts with or without staff are still available after the deployment is made by the concerned



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Officer the list of those surplus staff shall be forwarded to the Director concerned on or before the 10th day of September of that academic year

(5) On receipt of the list of surplus posts with and without staff. -

(a) the Director concerned shall resume the surplus posts without staff to the common pool and communicate the same to the Secretary of the school committee or the management of the school, the concerned District Educational Officer, the Chief Educational Officer and the Joint Director, as the case may be;

(b) in respect of surplus posts with staff, the Director concerned shall accommodate the identified surplus staff against the eligible vacancy in another aided school coming under the same educational agency in the adjacent Revenue District;

(c) if no such vacancy is available in the adjacent Revenue District, such staff shall be given an opportunity of exercising his option for deployment either,-



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(i) to the eligible vacancy in other aided school under the same educational agency but in far away district; or

(ii) to the eligible vacancy in other aided school under different educational agency but in the nearby district;

(d) if there is any conflict in the selection of the school specified in clause (c) above, the senior surplus staff shall be given preference.

(6) The above process shall be done by conducting counselling by the concerned Director or the Chief Educational Officer, the District Educational Officer, and the Joint Director, as the case may be, on or before the 30th day of September of that academic year.

7) Even after all these processes, if surplus staff are still available to be deployed or where such deployment is felt difficult, such surplus staff available with the Director concerned shall be sent on deputation to some other nearby Panchayat Union school by the district Educational Officer concerned or to the Government High/Higher Secondary School by the Chief Educational Officer concerned or to the Anglo-Indian School by the Joint Director concerned, till a vacancy arises in any



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other aided school for the purpose of deployment.

8. It appears that the petitioner has filed this Writ Petition for fixation of the staff strength of the petitioner school in the year 2014.

9. Subsequently, the issue was decided by the Hon'ble Division Bench of this Court in WA(MD)Nos.76 of 2019 etc. batch dated 31.03.2021 fixing certain guidelines. The relevant portion of the said judgment is extracted herein under:

“94.1. If we have the over all view of the aforesaid factual matrix and discussion made exhaustively on the core issues as well as peripheral issues arisen in this batch of cases for decision, we can divide the same in three broad categories.

They are :

(i) Fixation of staff strength, identification and redeployment of excess teachers to the needy schools, the mode of such activities and the compendium of schedule for the same;

(ii) Right of the private aided institutions including the minority run institutions to have both Tamil and English medium sections and the right of the students to get free and



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compulsory education in both mediums according to their choice and in that case, the necessity of having enough or adequate staff strength based on the teacher-pupil ratio and accordingly, the staff grant to be made by the State Government for such Tamil / English medium sections, especially in the context of the provisions of the RTE Act, i.e., from the academic year 2010-11; and

(iii) Till the comprehensive legislation, namely, Tamil Nadu Private Schools (Regulation) Act, 2018 and the Rules to be made in this regard comes into effect, whether a set of mandatory directions to be issued in this batch of cases, including compendium of schedule, can stay for utility.

94.2. Insofar as the first category of issue is concerned, we have already discussed those issues at length and have expressed our view, accordingly, the school shall be the unit and not the educational agency for fixing the staff strength, based on which, every year, staff strength based on the teacher-pupil ratio shall be fixed on or before a particular date by the Educational authorities followed by identification of excess teaching staff in every such school and once excess teaching staff are identified, those excess staff shall be redeployed to needy school under the same management or different managements, as the case may be. In this context, a strict time schedule shall be followed, both by the Education Department as well as the Institutions and its managements



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and there shall be no deviation of such compendium of schedule, which we propose to prescribe in this Order”.

10. In view of the the subsequent developments, the present student-teacher strength is to be fixed as per the provisions of Right to Education Act. Hence, the petitioner has to work out his remedy on the basis of the student-teacher ratio to be decided for the present year. Hence, I find no merit to interfere with the impugned order.

11. In fine, this Writ Petition is dismissed. No costs.

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Index : Yes / No
NCC : Yes / No
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B.PUGALENDHI, J.

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