



W.P.(MD).No.19299 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.19299 of 2023
and WMP(MD) Nos.15982 of 2023& 8707 of 2024

The Correspondent,
St.Mary's Higher Secondary School,
Colachel- 629 251,
Kanyakumari District.

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep 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 Chief Educational Officer,
Kanyakumari District.
4. The District Educational Officer,
Nagercoil, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorari calling for the records relating to



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the impugned Staff-Fixation issued by the 3rd respondent CEO for the academic year 2022-2023 in Mu.Moo.No.9251/a4/ 2022 dated 14.02.2023 (received on 18.05.2023) has taken away one post of PG Assistant Tamil, two post of Vocational Instructors and one post of PG Assistant Physics, one post of PG Assistant Chemistry, single post of Physical Education Director, 5 post of Tamil Pandits, 5 Post of BT Assistant Science, 9 post of Secondary Grade teachers, 1 Physical Education teacher along with single post of Record Clerk, single post of Scavenger as surplus is concerned and quash the same.

For Petitioner : Mrs.A.Amala

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mrs.A.Amala, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents.

2. The petitioner has filed this writ petition challenging the impugned order passed by the 3rd respondent in Na.Ka.No.9251/a4/2022, dated 14.02.2023.



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3. The petitioner School is offering education from Standards VI to XII and fully aided by the Government. The medium of instruction is both Tamil and English. There are 1411 students are now studying in the School. The total staff strength allowed for the petitioner School during the year 2022-2023 is 8, declaring 13 posts out of 21 as surplus. Even on the crucial date the staff fixation for the academic year 2022-2023, the petitioner School has got the strength of 771 students as said above.

4. The grievance of the petitioner is that the School has got enough strength to retain 21 and above Teachers, but the respondents have fixed the staff strength, by reducing 13 Teachers post as surplus. As per the guidelines for fixing the Teacher strength as stated in G.O.Ms.No.525 School Education Department, dated 29.12.1997, a ratio of one teacher for every 40 students has been adopted in Principle. Separate Norms have been prescribed for the different stages of Education as below:

“I.ELEMENTARY SCHOOLS(Standards I to V)

a) The teacher-pupil ration 1:40 will be followed Minimum of 2 Secondary Grade Teachers up to a strength of 80 will be sanctioned.

In respect of new Schools, first post will be created in the first year and second post in the second year. One of the two posts will be in the grand of Headmaster.



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b) For ever additional strength of 40, one post of Secondary grade teacher will be sanctioned i.e., the third post at 100, the fourth post at 140, the fifth post at 180 and so on.

c) Regarding the bifurcation of a standard, additional sections will be created when the strength exceeds 60 and so on in slabs of 40.

II.MIDDLE SCHOOLS (Standards VI to VIII)

a) The teacher-pupil ratio of 1:40 will be followed. The same norms suggested for elementary schools will be followed. One of the posts will be in the grand of Middle School Head Master.

b) When a Middle School is upgraded as High School, the post of Middle School Head Master will be converted into High School Head Master in respect of elementary Schools one post of Head Master will be sanctioned as per existing orders.

III. HIGH SCHOOLS (Standards IX to X)

a) The teacher-pupil ratio of 1:40 will be followed. On this basis the following norms will be followed:

Average attendance

No. of posts.

Upto 80

1 Head Master and 2 B.T. Assistants.

The third post will be given when the strength exceeds 60 and additional sections will be permitted in the slab of 40.

b) Eligibility for Language teachers will be as follows:

Total of sections in Standars VI toX	No. of Language Teachers Posts.
(i) Upto 5	1
(ii) 6 to 10	2
(iii) 11 and above	3

c) When the strength in classes VI to X to High Schools exceeds 250, One post of Physical Education Teacher will be sanctioned and every additional post of Physical Education Teacher will be sanctioned



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subject to a maximum of 3.

IV. HIGHER 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) For 2 Groups ---- 6 Post-Graduate Assistants.

(ii) For English ---- 1 Post-Graduate Assistants.

(iii) For Tamil ---- 1 Post-Graduate Assistants.

b) Additional post of post-Graduate Assistant will be sanctioned bases 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 teacher (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 up gradation of existing post of Physical Education Teacher.”

5. Both the individual class strength and the total School strength of the petitioner's School has got enough data for getting more than 21 Teachers. In fact, as per G.O.Ms.No.525 for minimum of two Groups in the Higher Secondary Section, the School is entitled to have 6 Post Graduate Assistant and the petitioner school is having five Groups in the Higher Secondary Section. So the petitioner School is entitled for two post of Post Graduate Assistant in



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Tamil. With regard to one post of PG Assistant Physics and one post of PG Assistant Chemistry is concerned, the school is having totally 6 aided+2 parallel English medium (one in standard XI and XII) totally 8 sections in the Science stream on Higher Secondary. So there are 56 teaching hours and a single teacher can handle upto 28 hours of teaching Physics as well as Chemistry for the remaining 28 hours of teaching. Hence, the School is in need of another one post of PG Assistant (Physics) and one post of PG Assistant (Chemistry). Similarly, single post of Physical Education Director is concerned, the School is having totally 430 students in the Higher Secondary Section and the School had been sanctioned with this single post of Physical Education Director long back in the year 1981. Without taking note of any of these aspects rendering single post of Physical Education Director as surplus is not legal.

6. Likewise, rendering two post of Vocational Instructor as surplus is concerned, Clause-(d) in G.O.Ms.No.525 in Higher Secondary Education, makes it very clear that for Vocational stream, 2 posts of teacher (full time) will be sanctioned irrespective of the number of courses. While being so, one G.Sahaya Kegin and K.Micheal Herin Madhu are working as Vocational Instructors from 01.06.2018 and 01.07.2019 respectively. Now taking away



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these two posts from the staff fixation, 69 School students studying Vocational Course would face untold hardship.

7. With regard to rendering of five post of Tamil Teachers are surplus is concerned, the Director of School Education vide proceedings dated 26.06.2002 in Na.Ka.No.148997/g3/01 has clearly stated that the schools which had been sanctioned with the post Tamil Pandit prior to 01.06.1998 may continue based on the need of the school. The petitioner's school had been sanctioned with the said post of Tamil Pandit in the year 1981 vide Proceedings in R.C.No. 29966/D3/81 dated 12.10.1981. Tamil teachers from Standard VI to X has to handle 21 Sections. Totally there are $21 \times 7 = 147$ hours of teaching needed for Tamil subject and hence, the School is in need of minimum of 5 Tamil Teachers. But without considering the same, the 3rd respondent vide impugned proceedings has rendered five post of Tamil Teachers as surplus, which is not correct.

8. The School is entitled for 21 teaching staffs from standards VI to X. Accordingly, there are 21 teachers working as of now, but, vide impugned staff fixation for the year 2022-2023 the 3rd respondent had declared 5 BT Assistant



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and 9 Secondary Grade Teachers as surplus. Similarly, one post of Physical Education Teacher is concerned, the School is having 771 students from Standard VI to X. As per G.O.Ms.No.525 if the student strength exceeds 250 in High Schools, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Education Teacher will be sanctioned subject to a maximum of 3. With regard to rendering the single post of Record Clerk and single post of Scavenger as surplus with staff in the light of G.O.Ms.No.238 School Education 6(1) Department dated 13.11.2018 amounts to be illegal. It is pertinent to note that the Division Bench of this Court has stayed the operation of the G.O.Ms.No.238 in the order passed in WA(MD)No.816 of 2023.

9. In fact, Right to Education Act does not state that the Pupil Teacher ratio can be increased as 40:1. It only says about the maximum limit of the students that can be handled by one Teacher. So the respondents shall not interpret in the above prescription as the mandatory minimum for one Teacher. Since the respondent have interpreted the Rule of 40:1 as mandatory minimum instead of construing as mandatory maximum, it has resulted in reduction of teachers.



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10. When 21 Teachers were available during the academic year 2019-2020, they would have been able to handle all the subjects in terms of the Pupil Teacher ratio available in each standard in the School. So in all better sense, the allotted strength of 21 Teachers could have been permitted, instead of reducing it to 8.

11. To add more clarity, it should be taken that if at all the Teachers strength is going to be reduced for any reason, then the Government has to ensure a situation which will not result in allowing one Teacher to handle more than 40 students. The whole object of Right to Education Act is to improve standards and quality of education and keep up excellence. So the action of the authorities shall not be in a way to defeat the very object of the Act in rendering 13 Teachers in the petitioner School as surplus is a wrongful exercise. When there is a possibility for the student strength to increase during this academic year, it is unfortunate to reduce the teachers also.

12. In the result, this writ petition is **allowed** and the impugned order of the 3rd respondent in Mu.Moo.No.9251/a4/ 2022 dated 14.02.2023 is set aside. The respondents are directed to issue orders for restoring the staff strength as



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how it was allowed in the academic year 2019-2020. No Costs. Consequently, connected miscellaneous petitions are closed.

10.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
P JL

To

1. The Secretary, State of Tamil Nadu,
Department of School Education,
Fort. St. George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
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