



W.P(MD).No.20859 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 25.09.2024

ORDER PRONOUNCED ON : 30.09.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.20859 of 2024
and WMP(MD).Nos.17679 & 17680 of 2024**

The Secretary
North Hindu Middle School
Panagudi – 627 109
Tirunelveli District

....Petitioner

Vs

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 600 009

3.The District Educational Officer
(Elementary Education)
Vallioor, Tirunelveli District

4.The Block Educational Officer
Panagudi, Tirunelveli District

....Respondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the Government Order issued by the first respondent in G.O.Ms.No.139, School Education



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(Pa.Ka.5(1) Department dated 19.06.2024 and subsequent impugned proceeding of the 2nd respondent in Na.Ka.No.4126/H/G/2024 dated 21.06.2024 and the consequential impugned deputation proceeding issued by the 3rd respondent DEO in Na.Ka.No.2224/A1/2022 dated 20.08.2024 (received in the WhatsApp on 27.08.2024) quash the same insofar as petitioner's school is concerned.

For Petitioner : M/s.A.Amala

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The present writ petition has been filed by an aided non-minority School challenging the following orders:

(a)G.O.Ms.No.139, School Education (Pa.Ka.5(1))

Department dated 19.06.2024 passed by the first respondent.

(b)Instructions issued by the second respondent on 21.06.2024 pursuant to the above said Government Order.

(c)The deployment order passed by the third respondent on 20.08.2024 deploying a secondary grade teacher from the petitioner's school to a different school.

(A)Facts leading to the filing of this present writ petition are as follows:

2.The Government of Tamil Nadu has issued the impugned



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Government Order on 19.06.2024 wherein guidelines have been issued for the purpose of deploying or deputing the surplus secondary grade teachers/B.T.Assistants based upon the staff fixation order for the academic year 2023-2024. Based upon the said guidelines, instructions have been issued by the second respondent under the impugned proceedings dated 21.06.2024 to conduct deployment counselling on 26.06.2024 and deputation counselling on 27.06.2024 and 28.06.2024. Consequently, the third respondent has passed an order on 20.08.2024 wherein a secondary grade teacher working in the petitioner's School namely Anitha has been deputed to C.M.S Primary School, Panankulam.

3.These three orders are challenged by the School management on the following grounds:

(i)The impugned Government Order is in violation of Rule 32 of Tamil Nadu Private School (Regulation) Rules, 2023.

(ii)The impugned order having been passed after commencement of the academic year 2024-2025, cannot rely upon the students strength of the previous academic year namely 2023-2024.

(iii)When a particular Act namely Tamil Nadu Private Schools (Regulation) Act, 2018 and Rules 2023 are governing the said field relating to the deputation, the impugned order is clearly in



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violation of the said statute. What cannot be done directly, cannot be done indirectly. If the statute provides for a thing to be done in a particular manner then it has to be done in that manner and not in any other manner.

(iv) When the Act declares that the staff strength has to be decided based upon the students strength prevailing on the first of August every year, the impugned Government order issued on 19.06.2024 cannot rely upon the students strength of the previous academic year namely 2023-2024.

(v) Other consequential orders passed by the respondents 2 and 3 herein are clearly illegal and they are liable to be set aside.

4. Per contra, the learned Additional Government Pleader appearing for the respondents had contended that the students strength of the petitioner's School in the academic year 2023-2024 was 60. Based upon the same, staff fixation order was issued on 29.12.2023. In the next academic year namely 2024-2025, the students strength has further come down to 48. It has also been intimated to the petitioner's School through staff fixation order dated 05.09.2024. Therefore, the petitioner's School cannot have any grievance whatsoever, whether the deployment order is based upon the students strength of the year 2023-2024 or 2024-2025. In fact, the students strength has come down for the academic year 2024-2-25 and the School has gone from bad to



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worse situation.

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5.The learned Additional Government Pleader had relied upon a judgement of the Hon'ble Supreme Court reported in ***(2020) 10 SCC 706 (Sugandhi (dead) by legal representatives and another Vs.P.Rajkumar represented by his power agent Imam Oli)*** to contend that even assuming if there is a procedural violation, but if does not seriously cause prejudice to a party, Courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. Even though the Government Order issued on 19.06.2024 relies upon the students strength of the academic year 2023-2024, the position of the petitioner's School does not get altered in the next academic year namely 2024-2025. In fact, it has gone from bad to worse. In such a situation, when there is no prejudice to the writ petitioner, the petitioner management does not have any locustandi to challenge the Government order or the consequential proceedings passed by the other authorities. Hence, he prayed for dismissal of the writ petition.

6.I have considered the submissions made on either side and perused the material records.

7.The students strength of the petitioner's School in the year 2023-2024 is 60 as per staff fixation order dated 29.12.2023. This order has not been challenged.



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8.The students strength for the academic year 2024-2025 is just 48 as per order dated 05.09.2024. As per staff fixation order 2023-2024, there were 7 surplus teachers in the secondary grade category. In the academic year 2024-2025, the same 7 teachers are declared as surplus. Therefore, it is clear that the students strength has come down and the surplus teachers remain the same in the academic year 2023-2024 and 2024-2025 as per respective staff fixation orders.

9.As per Rule 32 of the Tamil Nadu Private Schools (Regulation) Rules, 2023, staff fixation for every academic year should be based upon the students strength prevailing on first of August of that academic year. It is no doubt true that under Government Order dated 19.06.2024, instructions have been issued relating to the deployment/deputation of surplus teacher based upon the students strength of the academic year 2023-2024.

10.It is the grievance of the writ petitioner that since the Government Order is issued on 19.06.2024 (after commencement of the academic year 2024-2025), it should only rely upon the students strength as prevailed on first of August 2024. The authorities cannot reply upon the students strength prevailing on 01.08.2023 which is clearly in violation of the statutory rules.

11.It is the further contention of the writ petitioner that the instruction for the date of counselling for deployment /deputation have been issued by the second respondent only based upon the above said Government Order. In



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fact, the deputation order has been issued by the third respondent deputing one of the teachers from the petitioner's School to a different School only based upon the Government Order and therefore, all the three orders have to be set aside.

12. When the students strength had come down from 60 to 48 in the academic year 2024-2025 and still there are 7 surplus teachers in the category of Secondary Grade Teacher for the academic year 2024-2025(which is not in dispute), mere fact that the authorities have taken into consideration the students strength of the previous academic year, would not cause any prejudice to the petitioner's institution. It is also to be noted that the deployment order has not been challenged by the concerned teacher.

13. The Hon'ble Supreme Court in a judgment reported in **(1976) 1 SCC 671 (Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and others)** in Paragraph No.48 has held as follows:

“48. In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of a legal right. He has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, much less does it wrongfully affect his title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. He 'has no legal peg for' a justiciable claim to hang on. Therefore he is not a 'person aggrieved' and has no locus standi to challenge the grant of the No-objection Certificate. “



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14. Even assuming that today a deputation order is issued based on the students strength of the academic year 2024-2025, still the petitioner's School would have 7 surplus teachers in the category of Secondary Grade Teachers. Therefore, it is clear that the petitioner's school has not sustained any legal injury and there cannot be any legal grievance to the writ petitioner to challenge the Government Order or the consequential proceedings.

15. In view of the above said deliberations, there are no merits in the writ petition and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30 .09.2024.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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Pre-delivery order made in

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