



W.P.(MD)No.24490 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.24490 of 2019

and

W.M.P.(MD).Nos.21113 of 2019 and 402 of 2021

The Correspondent,
St. Mary's Higher Secondary School,
Melpalai-629 152,
Kanyakumari 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 School Education,
College Road, Chennai-006.
- 3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
Thiruvattar, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Staff Fixation settled by the 3rd respondent Chief Educational Officer for the academic year 2018-2019 vide proceedings in Mu.Mu.No.



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12420/E2/2018 dated 26.12.2018 (signed on 10.4.2019) and the consequential proceedings in O.Mu.No.003338/E2/2019 dated 31.05.2019 quash the same in so far as it renders the single cadre post of Pre Vocational Instructor (Agriculture) as surplus and further direct the 3rd respondent Chief Educational Officer to approve forthwith the appointment of S.Agvinas Regin as Pre-Vocational Instructor (Agriculture) w.e.f the date of his appointment viz., 01.06.2018 with salary and all other attendant benefits.

For Petitioner : Mr.T.Cibi Chakraborty

For Respondents : Mr.T.Amjad Khan,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned staff fixation order dated 26.12.2018, issued by the third respondent, in respect of the petitioner School and the consequential proceedings dated 31.05.2019 pertaining to the petitioner School for the academic year 2018-2019.

2. The petitioner is aggrieved by the impugned proceedings treating the sanctioned post of Pre-Vocational Instructor (Agriculture) as surplus.

3. According to the petitioner, being a single cadre sanctioned post, the third respondent ought not to have declared the post of Pre-Vocational



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Instructor (Agriculture) in the petitioner School as surplus in the impugned

proceedings.

4. A counter affidavit has been filed by the respondents denying the contentions of the petitioner. They would rely upon G.O.(Ms).No.39, School Education (D1) Department, dated 21.03.2003, to deny the relief for the petitioner School.

5. Learned counsel appearing for the petitioner drew the attention of this Court to the Division Bench judgment of this Court rendered in W.P.(MD).No. 1569 of 2015 dated 20.02.2018 as well as another Division Bench Judgment of this Court rendered in W.P.(MD).No.24071 of 2017, dated 20.02.2018 and would submit that while interpreting G.O.(Ms).No.39, School Education Department, dated 21.03.2003, which has been relied upon in the counter affidavit filed by the respondents, the Division Bench has held that, it is permissible for the respondents to grant approval for the post of Pre-Vocational Instructor (Agriculture) as well, despite the fact that generally in case of single cadre post, the permission is granted only for Sewing and Music Teachers.



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6. In the case on hand, it is not in dispute that the post of Pre-Vocational Instructor (Agriculture) is a sanctioned post for the petitioner School. It is also a single cadre post.

7. Learned counsel appearing for the petitioner would also submit that, since the petitioner School is located in the coastal area, the reasons for granting approval given by the Division Bench in the aforesaid decisions for the post of Pre-Vocational Instructor (Agriculture) is also applicable to the case of the petitioner School.

8. It is also brought to the notice of this Court by learned counsel appearing for the petitioner that aggrieved by the order dated 20.02.2018, passed by the Division Bench of this Court in W.P.(MD).No.24071 of 2017 referred to supra, the State had preferred a Special Leave Petition before the Hon'ble Supreme Court and the same was also dismissed. The said dismissal of the above said Special Leave Petition is also not disputed by learned Government Advocate appearing for the respondents.

9. Therefore, it is clear that the approval can be granted for sanctioned post of Pre-Vocational Instructor (Agriculture), if the petitioner is able to satisfy



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that such post is essential for their School. Admittedly, the sanctioned post of Pre-Vocational Instructor (Agriculture) for the petitioner School is also a single cadre post.

10. The law is also well settled that in the case of single cadre post, more particularly, Sewing and Music Teachers are concerned, the approval will have to be given. Therefore, there is no prohibition for the respondents to grant approval to the petitioner School for appointing a Pre-Vocational Instructor (Agriculture) Teacher in the petitioner School, as the said post is a sanctioned post and is a single cadre post.

11. The petitioner also pleads that, since their School is being located in the coastal area, there is necessity for them to appoint such a Teacher. In this Writ Petition, the petitioner has challenged the impugned staff fixation order declaring the sanctioned post of Pre-Vocational Instructor (Agriculture) in the petitioner School as surplus.

12. For the foregoing reasons, such a declaration of surplus ought not to have been made by the respondents under the impugned proceedings, due to the reason that the post of Pre-Vocational Instructor (Agriculture) is a single cadre



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post and it depends upon the needs of the petitioner School. It is clear from the aforesaid decisions rendered by the Division Bench of this Court and upheld by the Hon'ble Supreme Court, the approval can also be given for appointment of Pre-Vocational Instructor (Agriculture) Teacher in the petitioner School, as the said post is a sanctioned post.

13. Accordingly, the impugned proceedings dated 26.12.2018 passed by the third respondent with regard to declaring the post of Pre-Vocational Instructor (Agriculture) in the petitioner School as surplus has to be quashed.

14. A consequential prayer has been sought for by the petitioner seeking for a direction to the third respondent to approve the appointment of Mr.S.Agvinas Regin as Pre-Vocational Instructor (Agriculture) with effect from the date of his appointment, viz.,01.06.2018 with salary and all other attendant benefits. The said consequential direction will also have to be issued to the third respondent to approve the appointment of Mr.S.Agvinas Regin as Pre-Vocational Instructor (Agriculture) with effect from the date of his appointment with salary and all other eligible attendant benefits.



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15. In the result, the impugned proceedings of the third respondent dated 26.12.2018 and the consequential proceedings of the third respondent dated 31.05.2019 are hereby quashed and the Writ petition is allowed by directing the third respondent to approve the appointment of Mr.S.Agvinas Regin as Pre-Vocational Instructor (Agriculture) with effect from the date of his appointment, i.e., on 01.06.2018 in the petitioner School with salary and all other attendant benefits within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

27.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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ABDUL QUDDHOSE, J.

TSG

To

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-006.
- 3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
Thiruvattar, Kanyakumari District.

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