



W.P.(MD)No.25280 of 2023, batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 13.06.2024

Delivered On : **11.09.2024**

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.25280, 25285, 25286, 25287, 25288, 25281, 25282,
25283, 25284 of 2023, 165, 197, 657, 713, 715, 716, 714, 1878, 3477,
3712, 3715, 3716, 3717, 3718, 5782, 3713, 3714, 3735, 5528, 5623
and 5760 of 2024
and
W.M.P.(MD)Nos.21474, 21476, 21477, 21469, 21470, 21471, 21472,
21473, 21478 of 2023, 187, 219, 220, 658, 715, 718, 714, 712, 711,
723, 725, 1888, 1889, 3445, 5452, 3647, 5259 and 5327 of 2024

W.P.(MD)No.25280 of 2023:-

R.Arul

... Petitioner

Vs.

- 1.The Director of Elementary School Education,
D.P.I. Compound,
College Road, Chennai.
- 2.The District Educational Officer (Elementary),
Tenkasi District,
Tenkasi.
- 3.The Block Educational Officer,
Kuruvukilam Range,
Tenkasi District.
- 4.The Correspondent,
TDTA V.M.Middle School,
Vagaikulam,
Tenkasi District.



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5.The Chief Educational Officer,
Tirunelveli District.

6.The Chief Educational Officer,
Tenkasi District.
(R5 & R6 are suo moto impleaded vide
Court order dated 29.02.2024 in
W.P.(MD)Nos.25280 to 25288 of 2023
and 165 of 2024 by LVGJ)

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd and 3rd respondents to approve the appointment of the petitioner as Secondary Grade Teacher in the 4th respondent School from the date of appointment i.e., from 12.10.2015.

For Petitioners	: Mr.S.Chellapandian, T.Pon Ramkumar, S.Lenin Prabhu, V.Panneer Selvam, S.Nedunchezhiyan
For Respondents 1 to 3, 5, 6	: Mr.D.Sadiq Raja Additional Government Pleader Mr.N.Ramesh Arumugam, Government Advocate Mr.M.Sarangan, Additional Government Pleader Mr.P.T.Thiraviyam Government Advocate
For 4 th Respondent	: Mr.Alwin Balan, Standing Counsel

COMMON ORDER

Prologue:-

“White collar crimes are committed by people who enjoy the high social status, great repute and respectability in their occupation.”

*-Edwin Hardin Sutherland,
Criminologist.*



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Public Policies pertaining to various departments are devised by the Government with perception of policy effectiveness intending to transform and improve the administrative mechanism of the State tending towards building the economy and development of the country ensuring a welfare state. Whenever a policy of the State fails due to the prevailing tainted field administrative set up, the mission boggles and collapses on implementation, without realizing the visionary zeal of the policy makers. The gap between policy formulation and implementation widens due to corrupt practices and the same pervades uniformly across every department of the current administrative set up.

2.The most pernicious of all the white-collar crimes in India is undoubtedly corruption, the evolution of which could be mapped back to the British Colonial period. Post Independence, several sensitive cases of corporate fraud and financial embezzlement have cropped up from time to time till date involving various Public Sector undertakings and Government officials, giving way to the collapse of several Government establishments.

3.A public policy to achieve it's target of societal transformation require an effective implementing mechanism driven by honest and committed Government servants contributing towards a perfect administration. The soul of Good Governance vests with a robust and



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honest administration.

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4. Here is a case, by which this Court envisage the anomalies which plagues the gap between the policy makers and implementing administrative setup in the department of education in the State of Tamil Nadu, which has resulted in pestering the financial burden of the State. During 1956, under the capable leadership of the then Chief Minister, the school education department of the State of Tamil Nadu gained momentum by the introduction of mid-day meal scheme, improving the enrollment of students in all the Government primary and middle schools across the State. In due course of time, the mushroom growth of private stake holders in the field of education resulted in drop of strength in Government and aided schools across the State. This resulted in running hundreds of government and aided schools with hundreds of surplus teachers without student strength. Despite drop in students strength, establishment of new schools became manifold.

5. In due course of time during 1980s, the Government of Tamil Nadu found it difficult to support such schools with grants due to financial and budgetary constraints. Under such scenario, the State legislature found it fit to regulate the sanction of grant and additional posts to the private aided schools. In view of the pressure from these institutions for sanction for teaching grants and additional posts, the Government studied the entire



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issue in depth with reference to the availability of resources.

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6. In order to provide teaching grant to the schools opened up to 1987-1988 and to formulate revised norms, orders were issued at the first instance, in G.O.Ms.No.340, Education, dated 01.04.1992, accepting the norms recommended by the committee constituted for this purpose. Thereafter, from time to time, several Government orders were issued in this regard. While so, in the light of the discussions and deliberations of the High power official norms Committee, School Education Department, G.O.Ms.No. 525, School Education (D1) Department, dated 29.12.1997 came to be issued revising the norms of assessment of grant for Teaching posts and fixation of staff strength in Elementary/High/Higher Secondary Schools, for the purpose of State aid.

7. The requirement of additional posts by new schools became a burden to the Government, as a result of which the State legislature decided to limit the annual sanction of additional posts. Hence, while giving recognition to opening/upgradation of new schools, they were informed that no State aid would be extended. But most of these managements, after accepting recognition without aid, started filing Writ Petitions in the High Court, Madras, claiming the sanction of teaching grant for all the posts in their schools. A fleet of cases including several batch cases came to be filed year after year by various schools/employees and the Hon'ble Division



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Bench of this Court, to give quietus to such pending litigations, vide a Compendium of Schedule with discreet directions to the authorities in W.A. (MD)No.76 of 2019, batch, dated 31.03.2021, swirled its judicial whip to regulate the anomalies encompassing the school education department.

8.In every legal battle initiated by such institutions/appointees of such private institutions, this Court has seen the war cry of the learned counsels representing the State, to save the Government's strained financial and budgetary implications. But the unmindful corrupt administrative mechanism of the State Educational Department by passing various incongruous orders has consistently facilitated these private institutions/appointees to march to this Court only to conveniently salvage their avocation, much to the detriment of the State's policy. Pained by the predominant viciousness prevailing in the department of education in the State of Tamil Nadu, this Court assertively grouped 30 cases pertaining to a single Corporate Management to show case to the Government, as to how a syndicate of kakistocracy among the officials in education department, systematically facilitate to defeat the policies of the State from time to time, for unethical ends.

9.A batch of 30 Writ Petitions have been filed, either seeking to direct the respective authorities of the respective Educational District to approve the appointment of the Teachers who were appointed in the various schools



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run by the Corporate Management, namely, TDTA, or to quash the impugned orders passed by the respective educational Authorities returning/rejecting the proposal to approve the appointment of Teachers who were appointed in the sanctioned vacancies in various schools under the TDTA Corporate Management. All the individual appointees have been appointed as Secondary Grade Teachers/BT Assistants/Tamil Pandits respectively.

10.For the sake of convenience, the exclusive details of the petitioners herein with crisp particulars are tabulated here under:-

S.No.	W.P.No.& Petitioner Name	Name of the School	Date of Appointment	Date of proposal of appointment	Date of return/rejection of proposal	Reason
1.	25280/2023 R. Arul POST- Secondary Grade Teacher in post vacant on 31.12.2014 due to retirement of Mrs. Daisy Glory Bhai	TDTA VM Middle School Tenkasi	12.10.2015	28.10.2015 08.03.2021 (Pending)	18.07.2017	
2.	25281/2023 Jeya Thenila POST - Secondary grade teacher became vacant on 26.08.2015 due to transfer of Mrs. Yogarani	TDTA Primary school, Tenkasi	09.10.2015	10.12.2015 13.3.2020 (Pending)		



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3.	25282/2023 Elizabeth Rani POST- Secondary grade teacher became vacant on 28.02.2017 due to retirement of Joy Jemimah	C.M.S. Usborne Middle School, Tirinaveli	06.04.2017	08.06.2017 15.03.2020 (resubmit)	04.12.2019 26.05.2020	
4.	25283/2023 Mary POST- Secondary Grade Teacher post vacant on 30.06.2015 due to retirement of Ponuraj	TDTA Middle school, Tenkasi	12.10.2015	06.02.2016 03.01.2017 08.03.2021 (Pending)	07.10.2016 18.07.2018	
5.	25284/2023 Salomi Jansi Rani POST- Secondary Grade Teacher in post vacant on 07.03.2017 due to the promotion of Mrs. Pandimadevi	TDTA Primary school, Tenkasi	5.10.2017	25.10.2017 08.03.2021 (Pending)		
6.	25285/2023 Jeya Rani POST- Secondary Grade Teacher vacant on 21.06.2016 due to transfer of Mrs Gladis Josephin	TDTA Middle School, Tirinaveli	22.02.2016	14.10.2016 28.08.2023 (Pending)	20.10.2016	
7.	25286/2023 Velu Thai POST- Secondary Grade Teacher vacant on 31.07.2017 due to retirement of Jayarani	TDTA Middle School, Tenkasi	06.04.2017	01.09.2017	23.11.2019	



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8.	25287/2023 Uma Maheswari POST- Secondary Grade Teacher post vacant on 25.08.2015 due to promotion of Mrs. Esther Chellathai	TDTA Middle School, Tenkasi	16.11.2015	06.12.2016 30.08.2018 24.02.2020 (Pending)	04.01.2016 12.12.2019	
9.	25288/2023 Arul Deva Nayagam POST- Secondary Grade Teacher due to vacancy of transfer of T. Anita on 26.08.2015	CM Primary School, Tirinelvei	09.10.2015	30.08.2017 06.04.2018 12.03.2020 (Pending)	30.08.2017 03.09.2019	
10.	165/2023 K. Jebastar POST- Secondary Grade Teacher due to retirement of Janshi Rani on 28.02.2023	TDTA Primary school, Tirinelveli	12.04.2023	07.10.2023	14.01.2023	The proposal shall be considered after issuing guidelines by the 1 st Respondent (Director of District Elementery Education)
11.	197/2024 Arul Marry Milred POST- B.T.Asst (Maths) post vacant due to transfer of Prabhavinodhini	Barenbuck Higher secondary school	04.06.2019	25.07.2019 10.08.2020	08.08.2019 21.08.2020	G.O.165 dated 17.09.2019 Surplus



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12.	657/2024 Daisybha POST- Secondary Grade Teacher in post vacant on 11.10.2015 due to retirement of Mrs. Vanajauhthal	TDTA Primary school, Tirinelvei	12.10.2015	12.11.2015 04.03.2017 10.10.2023 (Pending)	03.02.2017 13.11.2017	
13.	1878/2024 Sweetlin POST – B.T. Asst(Maths) post vacant on 23.11.2019 due to retirement of Manoharan Mosses	St. Jones Hr.sec.school, Tirinelveli	29.09.2020	Proposal sent immediately after joining on 29.09.2020	11.12.2023	Surplus
14.	3477/2024 Antony Ammal POST – Secondary grade teacher post vacant due to retirement of Ananda Mercalin	TDTA Primary school, Tirinelvei	21.06.2016	08.08.2016 17.12.2020	20.12.2023	Surplus Proposal can be considered after deployment SLP Dairy No. 15702/2021 pending
15.	3712/2024 Saboral Marry POST- Graduate teacher (Maths) in post vacant on 12.10.2015 due to transfer of T. Seeniammal	TDTA Middle School, Tirinelvei	17.01.2018	07.10.2023 to R1,R2,R4,R5 and 12.12.2023 to R3 (Pending)		
16.	3713/2024 Muthu Pandi POST- Graduate teacher due to the retirement of Tamilselvam	TDTA Primary and Middle school, Tirinelveli	23.09.2017	30.10.2023 to R1,R2,R4 and R5 and 12.12.2023 to R5 (Pending)		



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17.	3714/2024 Kasi Rajan POST- Graduate teacher due to vacancy of retirement of R. Tamilarasi	TDTA Middle school, Tenkasi	20.02.2019	20.02.2019 (Pending)		
18.	3715/2024 M Bushparaj POST- Secondary Grade Teacher due to vacancy of promotion of R. Rajammal	TDTA Primary school, Tirinelvei	01.08.2019	06.10.2023 (Pending)		
19.	3716/2024 Kanagamani POST- Graduate teacher (Science) in post vacant due to transfer of J. Shanthi	TDTA Primary and Middle school,Tenkasi	06.10.2017	12.12.2023 (Pending)		
20.	3717/2024 Anitha Christy T POST- Graduate teacher (Science) in post vacant on 01.04.2019 due to promotion of C. Agnes Paul	TDTA Primary and Middle school, Tirinelvei	02.04.2019	22.08.2023 to R3 06.10.2023 to R1,R2,R4,R 5 (Pending)		
21.	3718/2024 K Iyyar Selvam POST- Graduate teacher(Tamil) in post vacant due to promotion of J. Anna Boss	TDTA Middle school, Tenkasi	03.08.2017	06.10.2023 to R1,R4 and R5 12.12.2023 to R3 (Pending)		
22.	5782/2024 Maria Stella POST - Secondary Grade Teacher post vacant on 03.12.2014 due to promotion of K. Viji	TDTA Middle school, Tenkasi	05.12.2014		18.02.2023	W.r.t order in W.P.(MD) 22493/2016 , Na.Ka. No. 1153/Aa5/2 017 dated 20.03.2017 and order in W.A.(MD) 1140/2018, approval cannot be granted without deploying.



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23.	3735/2024 Stancy T POST – B.T. Asst Tamil (Pundit) teacher became vacant on 31.03.2016 due to retirement of Mrs. Sulochana	CMC Marry Arden Middle school, Tirinelveli	22.04.2016	03.04.2016	12.12.2023	Surplus
24.	5528/2024 Jaya G POST - Upgraded B.T.Asst post vacant due to one Shenbagalakshmi on superannuation	TDTA Middle school, Tenkasi	17.01.2018	17.01.2018	10.07.2023	Send representati on to concerned B.E.O
25.	5623/2024 Leema J POST - B.T.Asst, due to superannuation of P.Kumuran on 30.06.2017 and post was upgraded as B.T. Asst on 05.10.2017	TDTA Middle school, Tenkasi	05.10.2017	01.10.2017	10.07.2023	Send representati on to concerned B.E.O
26.	5760/2024 Prince Selva Mery S POST - Secondary Grade Teacher in post vacant due to promotion of I. Yovan as HM on 03.06.2019	TDTA Primary school,Tenkasi	04.06.2019	19.06.2023		
27.	713/2024 Magdline Dhavamani POST – B.T.Asst (Science) post vacant due to retirement of Vanitha Pramila	Sara Tucker Higher secondary school, Tirinelveli	03.06.2019	20.07.2018 10.11.2020	25.10.2019 05.02.2021 29.09.2021 (impugned)	Surplus
28.	714/2024 Jenifer Rajathi POST – B.T.Asst (Science) post vacant due to transfer of P. Selvamathi Jasinth	Sara Tucker Higher secondary school, Tirinelveli	03.06.2019	09.07.2019 10.11.2020 06.08.2021	05.11.2019 30.07.2021 20.09.2021 (impugned)	Surplus
29.	715/2024 Manoranjitham POST – Tamil pundit post vacant due to retirement of D. Jessie Jicky	Sara Tucker Higher secondary school, Tirinelveli	03.06.2019	04.03.2020 10.11.2020 22.02.2021	29.06.2020 05.02.2021 23.07.2021 29.09.2021 (impugned)	Surplus
30.	716/2024 Roselin Mano Shakila POST – Tamil pundit post vacant due to transfer of V. Granapoo	Sara Tucker Higher secondary school, Tirinelveli	31.07.2018	04.10.2018	29.09.2021 (impugned)	Surplus



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Tinnelvely Diocesan Trust Association Corporate Management :-

11.The Tirunelveli and Tuticorin Diocese together runs a total number of 323 schools, that is, 249 primary schools and 74 middle schools respectively, in the educational Districts of Tirunelveli, Valliyur, Tenkasi and Sivakasi. The Diocese of Tirunelveli and Tuticorin together constitutes the Tinnelvely Diocesan Trust Association (hereinafter referred to as 'TDTA' for short) Corporate Management. The Manager of TDTA primary and middle schools, Diocesan Office, Palayamkottai, has filed a comprehensive report on the complete details as to the student Teachers ratio, deployment and surplus position in all these 323 schools run by the aforesaid Corporate Management.

12.An anxious perusal of the aforesaid report along with documents would make it clear that, pursuant to the proceedings of the District Elementary Education Officer, dated 30.01.2013 and 25.09.2013, directing the corporate management to deploy the surplus Teachers, TDTA has deployed surplus Teachers on 19.02.2013 and 26.09.2014 respectively and the same has been intimated to the authorities concerned, following which, the appointment of Teachers during that period of time was also approved from the date of appointment. However, the scenario changed after 2014. Post 2014, only during the year 2019, the Chief Educational Officer vide proceedings in Na.Ka.No.12248/E1/2018, dated 14.02.2019, directed the



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corporate management to deploy the surplus Teachers and the surplus Teachers were also duly deployed on 19.02.2019 and was intimated promptly to the education Authorities, which was also approved by them. However, the approval of appointment of Teachers who were appointed post 2014, was kept pending by the authorities concerned. On 16.03.2023, the District Educational Officer (Elementary) vide proceedings in Na.Ka.No. 0087/Aa3/2022, directed the Corporate Management to deploy the surplus Teachers in the educational District of Tirunelveli, Valliyur and Tenkasi. Following which, TDTA duly deployed the Teachers and intimated the same to the education authorities, which was also approved by them. Pursuant to the proceedings of Tirunelveli District Educational Officer (Elementary) in Na.Ka.No.597/Aa3/2022, dated 10.01.2024, the Valliyur District Educational Officer (Elementary) in NaKa.No.2414/Aa1/2023, dated 23.01.2024 and the Valliyur District Educational Officer (Elementary) in Na.Ka.No.1130/A1/2023, dated 30.01.2024, directed the TDTA Management to deploy the surplus Teachers in the education Districts of Tirunelveli, Valliyur and Tenkasi. Following which, the surplus Teachers were deployed, due intimation was given to the education Authorities, which was later approved by them. Despite promptly deploying the surplus Teachers as directed by the authorities concerned, the Teachers who were appointed in the sanctioned vacancies, which had arisen in the various schools run by the TDTA management is kept pending without approval by the authorities concerned. Despite prompt deployment of surplus Teachers



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by the TDTA management as and when a report has been received from the education authorities, the Teachers appointment is not promptly approved by the authorities concerned. Though approximately 493 secondary grade posts were surrendered during the fixation process by the TDTA Management, despite having excess strength not even a single needy post is granted by the authorities till date. That apart, the plight of the Management is that the staff fixation, which is to be carried out by the education authorities during the month of August and September were not done periodically and the fixation came to be done only at a later point, that is, at the end of the academic year or even after the academic year and interestingly, in few years, fixation was not even done. In the result, the various appointments, which were made from the year 2014 in the various schools run by the corporate management are pending before the authorities for approval without consideration till date. Under such scenario, the individual appointees/school concerned are before this Court, seeking approval of the appointment of the Teachers in the various schools run under the TDTA corporate management. The various proposals submitted by the concerned schools with respect to the appointment of the individual appointees are rejected/returned/kept pending without consideration by the authorities on the following grounds:-

i)There are surplus Secondary Grade/BT Assistant/Tamil Pandit Teachers in the concerned school or in the corporate Management.

ii)G.O.Ms.No.165, dated 17.09.2019, School Education Department



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mandates that fresh appointments of teaching faculty in any vacancy, which had arisen, due to any reason, cannot be approved, unless and until the deployment of the Teachers in the corporate management in the schools run by the corporate management is completely exhausted.

iii)The interim order passed by the Hon'ble Division Bench of this Court in W.A.(MD)No.76 of 2019, batch, on 09.04.2019, mandated exhaustion of surplus Teachers by the corporate Management by deploying them to the needy schools run by the respective managements.

iv)As against the common judgment passed by the Hon'ble Division Bench of this Court in W.A.(MD)No.76 of 2019, batch dated 31.03.2021, Special Leave Petitions are pending before the Hon'ble Apex Court.

v)Pursuant to the proceedings of the Commissioner, School Education/Director Elementary Education in Na.Ka.No. 34118/D1/E4/2013, dated 29.03.2023, guidelines with respect to the appointment of post other than Headmaster and PG Assistants are awaited.

13.The issue of refusal, return of proposals to approve the appointment of Secondary Grade Teachers/BT Assistants/Tamil Pandits, etc, in sanctioned vacancies in the schools run by a Corporate Management is no more *res integra*. Even in the *lis* in hand, the crux of the issue revolves around the non-consideration of approving the appointments of the Teachers appointed in sanctioned vacancies in the schools run by the TDTA Corporate Management. This Court has dealt with the same in umpteen



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number of cases, more particularly the Hon'ble Division Bench of this Court in W.A.(MD)No.639 of 2015, batch, dated 17.06.2015, reported in 2015 SCC Online Madras 14263, has dealt with a similar issue pertaining to the same Corporate Management, that is, the TDTA group of Schools and the relevant portion of the same is extracted as follows:-

“5.It is seen that 247 Primary Schools and 73 Middle Schools are being run by TDTA. When excess teachers are available in a number of institutions run by the 2nd respondent Management, as of today, in fairness to the claim and demands of the students, the 1st appellant herein should take immediate steps to deploy the 68 excess teachers, immediately, to the schools where vacancies are to be filled, which is stated to be 73 in number.

8.As stated supra, inasmuch as appointments of the writ petitioners were made against sanctioned posts in the respective schools. Observations made in the W.A.No.70 of 2012 dated 13.03.2012, granting permission to the District Elementary Educational Officer, Tirunelveli, to take steps, to deploy excess 12 teachers, from the schools under the same management, cannot be a ground, to deny approval of appointments of the writ petitioners, as Secondary Grade Teachers in the schools, in which, they were appointed. When the school management sends a proposal for approval of the teachers, the educational authorities have to consider, as to whether such teachers have been appointed against sanctioned posts and whether they are qualified for such appointment. Rule of reservation wherever applied is also verified. On the above aspects, there is absolutely no quarrel by the educational authorities.

9.When a specific question was posed to the learned Special Government Pleader, as to whether appointment of Mr.S.Austin Jeba



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Solomon, a teacher in TDTA Primary and Middle Schools, Devarkulam Pastorate, Tirunelveli District/ 1st respondent in W.A(MD)No.70 of 2012 was approved or not, notwithstanding the observations made by the Hon'ble Division Bench in the above appeal, filed by the State, the answer was in the affirmative and therefore, it is evident that even after the said observations, the department had chosen to approve the appointment of the said teacher. For another question posed to the learned Special 13 Government Pleader, as to whether the department had taken steps to redeploy the excess teachers, as observed, the answer was in the negative. Thus in the absence of any steps being taken by the department and when appointments of the writ petitioners, are against sanctioned posts, in the respective schools and considering the fact that the department itself, had chosen to approve the appointment of one Mr.S.Austin Jeba Solomon, on its own, party respondent in W.A.No.70 of 2012, wherein, the abovesaid observations were made, this Court is of the view that the writ petitioners are entitled for approval of their appointments, as Secondary Grade Teachers. At this juncture, it is also worthwhile to consider the following decisions, as to whether a benefit conferred to a similarly placed person can be denied or not, when facts are similar.”

14.All the appointees with respect to these requisitions were appointed on or after October 2015. The area of staff fixation and redeployment of surplus staffs are governed by the mandates of G.O.Ms.No.525, School Education D1 Department, dated 29.12.1997. The relevant portion of the said G.O., is extracted as follows:-

“8. A fresh Assessment of grant for posts as per these orders shall be



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done on the basis of average attendance. **The staff strength shall be fixed by the District Educational Officer concerned for High and Higher Secondary Schools and by District Elementary Educational Officer in respect of Elementary Middle Schools.** Those who may be rendered surplus due to application of these norms, shall, as far as possible be redeployed to the needy Schools. **The redeployment of staff in schools shall be done by Director of School Education and Director of Elementary Education or the Officers to be authorized by them.** This will be in super session of the orders issued in G.O.Ms.No.392, Education, dated 24.6.1996. In cases where such deployment is felt difficult, the surplus staff shall be allowed to continue in the same school till their retirement and then the staff strength refixed as per norms. So also wherever necessary, additional posts shall be sanctioned only after taking into account the number of staff deployed to such schools. The Director of School Education and Director of Elementary Education should report the additional posts to be sanctioned as per the new norms after which formal permission in the first year alone shall be granted by Government for filling up of the posts. Subsequent fixation of staff strength shall be done by the District Elementary Educational Officer in respect of Elementary and Middle Schools. Regarding High and Higher Secondary schools, this shall be done by the Joint Directors in the Education Department at the rate of 4 Revenue Districts per Joint Director and permission from Government to fill up the posts is not necessary.”

15.It is pretty clear from the mandates of G.O.Ms.No.525 that, staff fixation as well as redeployment of surplus staffs shall be done by Director



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of School Education and Director of Elementary Education or Officers authorized by them. Thus, it could be understood that only the authorities mentioned supra can redeploy surplus Teachers in the schools under the same corporate management and the respective schools cannot redeploy the surplus Teachers on its own. In the instant cases, all the proposals forwarded to the authorities for approval of Teachers appointed in sanctioned posts under the TDTA Corporate Management came to be returned/rejected for the reason of non-exhaustion of surplus Teachers to the needy schools.

16.The comprehensive reports submitted before this Court by the Manager of TDTA Schools claim that after 2014 from the year 2015 to 2019, neither staff fixation nor orders of redeployment were passed authorities concerned. After 2014, only during 2019, the Chief Educational Officer in Na.Ka.No.12248/E1/2018, dated 14.02.2019, directed the TDTA Management to deploy the surplus Teachers on the basis of the staff fixation for the respective schools and thereafter, duly the Management had deployed the surplus Teachers on 19.02.2019 and the same has also been approved by the authorities on receiving intimation in this regard.

17.Per contra, the learned Additional Government Pleader appearing for the respondent authorities categorically contended that staff fixation was made by the respective authorities from time to time during every academic



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year refuting the claim of the TDTA Management. To substantiate his argument, the learned Additional Government Pleader had also filed an additional paper book dated 12.03.2024. The details of surplus Teachers of TDTA Joint Management Schools produced by the respondent authorities do not reflect the date of staff fixation as arrived by the respondent authorities. That apart, the proceedings of the competent authorities directing the Management to deploy the surplus Teachers during the academic years from 2015-2016 to 2018-2019 is also not produced. However, as contended by the comprehensive report of the TDTA Corporate Management, the respondent authorities have produced the proceedings of Chief Educational Officer in Na.Ka.No.12248/E1/2018, dated nil.02.2019, signed on 14.02.2019, pertaining to the grant of permission to redeploy surplus staffs in the schools run by TDTA Corporate Management. For better clarity, the proceedings of the Chief Educational Officer, Tirunelveli, in Na.Ka.No. 12248/E1/2018, dated .02.2019, is extracted as follows:-



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18.Though it is claimed in the aforesaid proceedings that the TDTA Management has not filed any report with respect to redeployment on the basis of the staff fixation, after the academic year 2012-2013, it can be precisely understood from the various communications between the TDTA Corporate Management and the respondent authorities that, order permitting redeployment by the Corporate Management was not issued by the Director of School Education/Director of Elementary Education/Officers



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authorized by them during the academic years from 2014-2015 to 2018-2019.

19.It is pertinent to mention at this point that, the Hon'ble Division Bench of this Court in the case reported in **2015 SCC Online Madras 14263**, has categorically recorded the fact that during 2015, the Department did not take any step to redeploy the excess Teachers in the TDTA Management.

20.From the relevant records placed before me by the rival parties, undoubtedly it has become clear that, the authorities have not taken any steps to redeploy the excess Teachers even after 2015 till 2019 and only pursuant to the proceedings of the Chief Educational Officer, Tirunelveli, in Na.Ka.No.12248/E1/2018, dated 14.02.2019, steps to redeploy surplus Teachers was taken by the respondent authorities in the TDTA Management after 2013-2014. Pursuant to the proceedings in Na.Ka.No.12248/E1/2018, dated 14.02.2019, the TDTA Management promptly complied with the directions of the authorities by redeploying the surplus Teachers to the needy schools under the said Corporate Management and duly submitted a report and the same is extracted as follows:-



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W.P.(MD)No.25280 of 2023, batch

"நன்மைசெய்யவும். தானதர்மம்பண்ணவும். மறவாதீதுகள்." எஸ்.13:16

TINNEVELLY DIOCESAN TRUST ASSOCIATION

Rev. A.D.S. Abraham M.A., B.D.,
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20.02.2019

மேலும்
மாவட்ட முதன்மை கல்வி அலுவலர் அவர்கள்,
முதன்மை கல்வி அலுவலகம்,
திருநெல்வேலி.

பொருள்: திருநெல்வேலி திருமண்டலம் - TDTA தொடக்க & நடுநிலைப் பள்ளிகளில் 2018-2019 கல்வி ஆண்டில் உட்பிரிவுகளை உட்குறிப்பிட்டுள்ள பணிப்படுத்தல் கருதல் தேவை பணிப்படுத்தல் மற்றும் நிரப்புகுத்த காலிப்பணிப்படுத்தல் பணி நிரவல் செய்த அறிக்கை சமர்ப்படுத்தல் - சாபு.

பார்க்க :

1. அரண்மனை எண் 231, நாள் 11.08.2010.
2. சென்னை உயர்நீதிமன்ற மதுரை கிளை டிவிசன் பேஞர் W.A.(M.D)No.639/2015 மற்றும் தொகுப்பு வழக்குகளில் 17.06.2015ல் வழங்கப்பட்ட தீர்ப்பு.
3. நீதிமன்ற தீர்ப்புபடிதான் ஆணை W.A.(M.D)No.70/2012 நாள் 13.03.2012.
4. தமிழ்நாடு பள்ளிக்கல்வி இணைப்புகளுள் (பணிபாளர் தொகுதி) அவர்களின் செயல்முறைகள் ந.உ.எண்.055838/சி3/இ2/2017 நாள் 13.04.2018.
5. தமிழ்நாடு தொடக்கக்கல்வி இயக்குநர் அவர்களின் செயல்முறைகள், ந.உ.எண்.008711/இ1/2018 நாள் 25.04.2018.
6. திருநெல்வேலி மாவட்ட முதன்மைகல்வி அலுவலரின் செயல்முறைகள் ந.உ.எண்.12248/சி1/2018 நாள் 14.02.2019.

திருநெல்வேலி மாவட்டம், திருநெல்வேலி வருவாய் மாவட்ட திருநெல்வேலி TDTA கூட்டு மேலாண்மை, சிறுபான்மை நிர்வாகத்தில் கீழ் நடைபெறும் தொடக்க மற்றும் நடுநிலைப்பள்ளிகளில் 2018 - 19ம் கல்விபாண்டில் உட்குறிப்பிட்டுள்ள ஆசிரியர்களை பார்வை (6)ல் கண்ட திருநெல்வேலி மாவட்ட முதன்மைகல்வி அலுவலரின் உத்தரவின் படி 20 உட்பிரிவு ஆசிரியர்களை பணி நிரவல் செய்ய அனுமதி வழங்கியபடியால் 7 உட்பிரிவு ஆசிரியர்களை கருதல் பணிப்படுத்தலுக்கும் 13 உட்பிரிவு ஆசிரியர்களை எங்கள் நிர்வாகத்தில் உள்ள திரப்ப தகுத்த காலிப்பணிப்படுத்தலுக்கும் பணி நிரவல் செய்து 18.02.2019 பிற்பகல் விடுவிக்கப்பட்டு 19.02.2019 முற்பகல் பணியில் சேர்ந்துள்ளன என்பதை தெரிவித்துக் கொள்கிறேன். இத்துடன் உட்பிரிவுகளையும் பணி நிரவல் ஆணையும், பணியிலிருந்து விடுவிக்கப்பட்ட ஆணை மற்றும் பணியில் சேர்ந்த அறிக்கை நகல்கள் இத்துடன் இணைக்கப்பட்டுள்ளது.

மேலும் தங்கள் உத்தரவின் படி 2018 - 19ம் கல்விபாண்டில் பணி நிரவல் செய்துள்ளபடியால் தற்போது எங்கள் நிர்வாகத்தில் உள்ள தொடக்க மற்றும் நடுநிலைப்பள்ளிகளில் உட்பிரிவு ஆசிரியர்கள் இல்லை என்று தெரிவித்துக் கொள்கிறேன். மேலும் எங்கள் நிர்வாகத்தில் உள்ள உட்பிரிவு ஆசிரியர்கள் அனைவரையும் பணிநிரவல் செய்யப்பட்டுவிட்டது என்பதையும் எங்கள் நிர்வாகத்தில் உட்பிரிவு ஆசிரியர் வரவும் பணிப்பிரியலில்லை என்பதையும் தங்களின் கீழ் உள்ள சான்றிதழை அனுப்புகின்றது தெரிவித்து எங்கள் நிர்வாகத்தில் நியமனம் செய்யப்பட்டு மான்யம் பெறாமல் பணிபுரிந்துவரும் ஆசிரியர்கள் நியமனங்களை ஏற்பாடுக்க உட்பிரிவு ஆணை வழங்குமாறு அன்புடன் கேட்டுக்கொள்கிறேன்

மேலாளர்
TDTA தொடக்க & நடுநிலைப்பள்ளிகள்
பாளையங்கோட்டை

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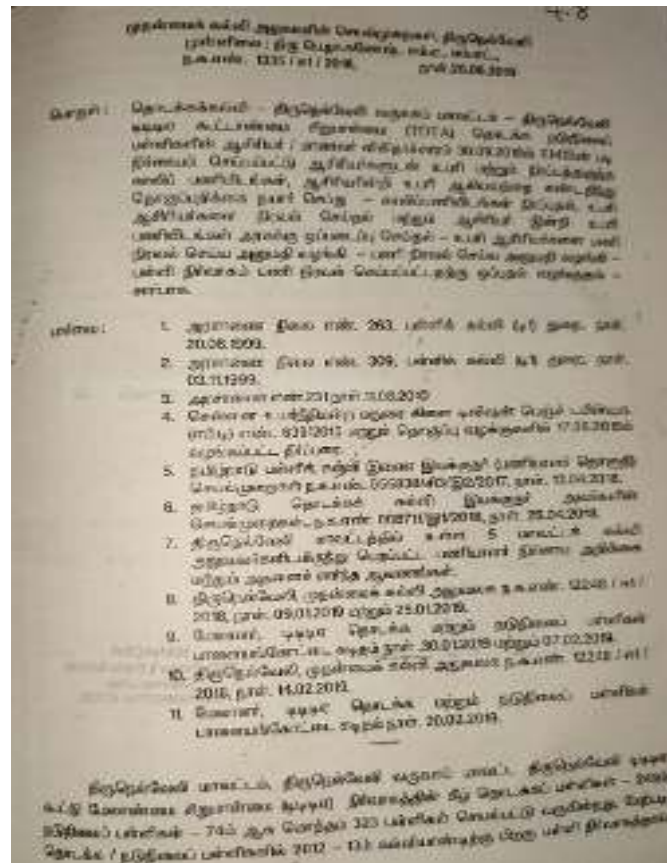
இணைப்பு :

1. உட்பிரிவுகளுக்கு வழங்கப்பட்ட பணி நிரவல் ஆணை நகல்கள்
2. உட்பிரிவுகள் பணியிலிருந்து விடுவிக்கப்பட்ட அறிக்கை நகல்கள்
3. உட்பிரிவுகள் பணியில் சேர்ந்த அறிக்கை நகல்கள்
4. பணி நிரவல் அறிக்கைப்பட்ட ஆசிரியர்களின் பட்டியல்

21.Following which, the Chief Educational Officer, Tirunelveli, vide proceedings in Na.Ka.No.1335/E1/2018, dated 26.06.2019, approved the redeployments effected by the TDTA Corporate Management and the same is extracted as follows:-



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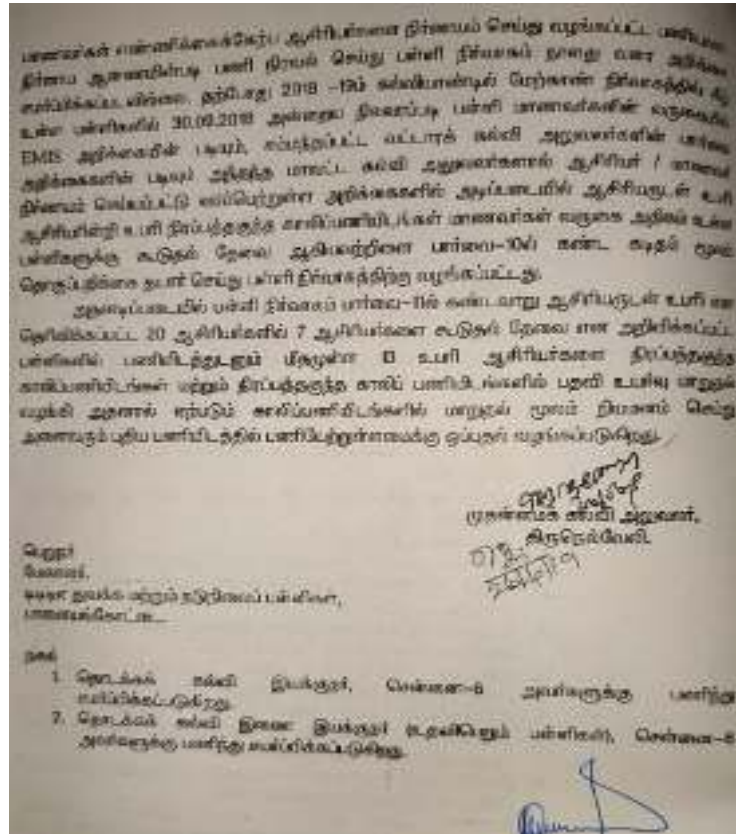




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22. Thereafter, even during the academic year 2022-2023 and 2023-2024, staff fixation was done, deployment orders received, following which deployment effected and reported and approved by the authorities concerned. As nearly as 493 Secondary Grade posts were surrendered during the fixation process in the TDTA Management. The proceedings of Tirunelveli District Educational Officer, Elementary, in Na.Ka.No. 597/Aa3/2022, dated 10.01.2024, Valliyur District Educational Officer, (Elementary) in Na.Ka.No.2414/Aa1/2023, dated 23.01.2024 and the Valliyur District Educational Officer, Elementary, in Na.Ka.No.



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1130/a1/2023, dated 30.01.2024, directing the TDTA Management to deploy the surplus Teachers in the education Districts of Tirunelveli, Valliyur and Tenkasi, would reveal that the staff fixation has been carried out by the education authorities not during the month of August and September periodically but only at a later point, that is, even by the end of the academic year or even after the academic year. It is needless to state that the staff fixation was not done during the period from 2015 to 2018.

23.However, during the turbulent period of time from 2015 to 2021, a sea change came into effect in the area of staff fixation, redeployment, etc, more particularly with the administration of various private aided schools, both minority and non-minority whose proposals for approval of teaching faculty came to be rejected continuously by the authorities concerned for several reasons, more particularly, on the ground that, no such appointment could be made till the surplus staff identified or to be identified are completely exhausted by redeployment of such surplus staff by the Corporate Management. A batch of such cases came to be clubbed before the Hon'ble Division Bench of this Court in W.A.(MD)Nos.76 of 2019, 1461 of 2018, batch and was finally disposed of on 31.03.2021 (**2021 SCC Online Madras 1285**) and the relevant portion of the same is extracted as follows:-

“94. Conclusive Discussions :

94.1. If we have the over all view of the aforesaid factual matrix



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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 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 and there shall be no deviation of such compendium of schedule, which



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we propose to prescribe in this Order.

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94.3. Insofar as the second category of issue is concerned, no doubt, by virtue of Section 14A of the Tamil Nadu Private Schools (Regulation) Act, 1973, the Institution / School which did not get aid at the time of or immediately before the academic year 1991-92 may not be entitled for such grant after 1991-92.

However if schools which were getting aid from the Government for teaching and non-teaching staff either at the time of or just before the commencement of the academic year 1991-92 shall continue to receive the teaching aid subject to the fixation of staff strength in every academic year. In those schools which are getting aid continuously even beyond 1991-92, in case of any additional class or sections are opened, on need basis, because of the enhancement of admissions in the school concerned, even those additional standard or additional section shall not be entitled to get teaching grant.

94.4. *However, in respect of this category of schools who did receive aid in 1991-92 and subsequently opened additional standard or additional class and not received the aid by virtue of Section 14A of the Act referred to above, those schools whether can continue to be in the same status even beyond 2010-11 in view of the provisions of the RTE Act?*

94.5. *In order to answer the said question, we answered in favour of the schools in our discussions made in the earlier paras of this order, accordingly, we deem it to hold that, the private aided schools both minority and non-minority which were established and run with aid either at the time or before commencement of academic year 1991-92, though had not received aid for the additional standards or sections opened subsequent to 1991-92, are entitled to get such aid for teaching grant for such additional required staff for additional standard or class opened in such school after the RTE Act came into effect, i.e., from*



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academic year 2010-11, for students of the age of 6 to 14 years only.

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94.6. *However, we are conscious of the effect of the aforesaid as those Institutions may claim such teaching grant retrospectively from 2010-11. Therefore, we make it clear that, those Institutions shall not be entitled to collect any arrear of staff grant for such additional staff for the purpose of additional section or standard opened after 2010-11 in an aided school as on 1991-92. However, they shall be entitled to get such staff grant for additional staff for the purpose of additional class or additional section only from the academic year 2021-22.*

94.7. *For the purpose of compendium of schedule to undertake the exercise of fixing the staff strength based on the pupil strength in a particular academic year, identification of excess staff and the process of completing the redeployment of excess teacher to the needy school, we propose to provide a compendium of schedule in the operative portion of this order, which shall be strictly followed and adhered to until a comprehensive rules to be framed in the 2018 Act referred to above comes into force.*

95. *In view of the aforesaid discussions, we are inclined to pass the following orders in this batch of cases :*

"(a) For the purpose of fixing the students-teacher ratio, the provisions of RTE Act followed by the G.O. passed in this regard shall be taken as the basis and the student pupil ratio shall be either 1:30 or 1:35 as the case may be as per the provisions of RTE Act.

(b) For the purpose of fixing the staff strength of a school, school shall be the unit and not the Educational agency / joint management / corporate management.

(c) Once the staff strength is fixed in a particular academic year of a school, it is the duty of the Educational authorities to identify the excess staff and once the excess staff are identified, the same shall be intimated to the school concerned as per the compendium of schedule



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and thereafter, take steps to redeploy those excess staff to the needy staff.

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(d) Once the excess staff are identified and after keeping the Institution intimated, if those excess staff are redeployed to the needy school within a stipulated time as per the compendium of schedule, the redeployed staff shall join duty in the redeployed school.

(e) The following compendium of schedule, for the aforesaid purpose, i.e., for fixing the teaching staff, identifying the excess teaching staff and to redeploy the identified excess teaching staff to the needy school, are framed as hereunder.

(f) COMPENDIUM OF SCHEDULE :

(i) Closing of Admission for the purpose of fixation of staff strength - 31st July of that academic year.

(ii) Fixation of staff strength of the school concerned, based on the student strength as on 31st July as per the strength of the pupil updated in the EMIS - 10th August.

(iii) The aforesaid fixation of staff strength of the school shall be intimated to the school on or before 15th August.

(iv) On receipt of information from the Department, the School concerned shall give its objection if any, based on the teacher-pupil ratio on such fixation of staff strength by 25th of August.

(v) On receipt of such objection, if any, from the school concerned, the final order of fixing the staff strength of the school, with the provisional order for identification and redeployment of excess staff shall be passed by the Department by 5th of September.

(vi) On receipt of such intimation of provisional order on identification and redeployment of excess staff, the school under corporate or joint management, shall act upon to give its consent to the redeployment of excess teacher concerned after keeping the teacher informed, to the Department, by 15th of September.

(vii) On receipt of such reply / intimation from the school concerned, final redeployment order shall be made and communicated to



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the school from where redeployment is made with a copy marked to the teacher concerned and also to the needy school to which the deployment is to be made, by 25th September.

(viii) On receipt of such orders by the teachers who are redeployed, they shall report to the school where they have been redeployed, on or before 30th September.

(ix) After making this redeployment process, still excess staff are available, the Education Department shall take further effort, and those excess teachers still available at the hands of the Education Department to be redeployed to a needy school beyond the corporate management concerned, i.e., to any school located in the same Educational District or Revenue District and even beyond which if still excess staff are available, they can be redeployed to any school beyond the Revenue District of course after getting the choice of such teacher concerned and that shall be completed by 10th October.

(x) Those teachers who got such redeployment within the Revenue District or beyond the Revenue District by orders to be issued on or before 10th of October, shall report duty to the School where they have been redeployed on or before 15th of October.

(xi) It is made clear that beyond 15th October of every academic year, no redeployment of teacher shall be made or given effect to.

(g) Once the teachers are redeployed from a particular school, after the joining time as provided under the compendium of schedule, the school from which the teacher has been redeployed cannot get teaching aid for the next month salary for that redeployed teacher and that salary shall be paid only through the school, where the teacher has been redeployed, for which, teaching grant shall be sent by the Educational authorities only to the needy school, where the teacher has already been redeployed.

(h) While identifying the excess staff for redeployment purpose as



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indicated above, regard has to be given that as far as possible junior most teacher shall be subjected to such redeployment. Also in case of high and higher secondary schools, while making such redeployment based on teacher-pupil ratio, regard has to be given to ensure that, atleast the minimum required teacher, for each subject being taught in the school, are in possession.

(i) Insofar as the teaching grant for the additional staff employed in the already aided school as on the academic year 1991-92, irrespective of the medium of instructions or irrespective of the students strength, as per the teacher pupil ratio as indicated above especially in the context of RTE Act and subsequent G.O issued in this regard, the staff fixation shall be made and for those additional teaching staff, who are pressed into service for additional standard or additional class started, from the academic year 2021-22, staff grant shall be sanctioned by the State Government as such sanctioning of staff grant will be the essential requirement to meet the object of the provisions of the RTE Act, otherwise, the Fundamental Right guaranteed to the children between the age of 6 and 14 studying in those schools would get affected.

(j) Irrespective of the medium of instruction, whether Tamil or English, such a staff grant for additional sections or standard shall be provided with the same condition as indicated above from the academic year 2021-22.

(k) The State Government shall ensure that, the provisions of the Tamil Nadu Tamil Learning Act, 2006 are implemented in letter and spirit, of course subject to the judicial orders / court orders, if any, passed in this regard for giving exemption to a group or class of students as provided under Section 5 of the said Act.

(l) Until the Tamil Nadu Private Schools (Regulation) Act, 2018 and the Rules to be made thereunder are given effect to, these set of



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directions issued in this order shall mandatorily be followed by the stakeholders, i.e., both State Government as well as the Educational Institutions.

(m) Once the 2018 Act and the Rules to be made in this regard comes into effect and the issues which are covered under this order as per these mandatory directions are taken care, these mandatory directions shall be ceased to be in execution.

(n) In order to give effect to such comprehensive legislation, i.e., 2018 Act, the work of framing necessary Rules under the Act shall be completed as early as possible.

(o) In view of the aforesaid, the G.O.Ms.No.165, School Education [Tho.Ka.2(1)] Department, dated 17.09.2019 is hereby declared to be inoperative.

(p) In view of the statistics given by the communication of the Director of School Education and Director of Elementary Education, dated 28.10.2020, as the import of the same in entirety has already been quoted herein above, the Education Department shall take endeavour to identify the exact excess teaching staff in various category of Schools, i.e., Government schools (Panchayat Union, Municipality and Corporation) Primary and Middle Schools, Government aided primary and middle schools, Government High and Higher secondary schools and aided High and Higher Secondary Schools separately by taking into account the recent policy decision taken by the State Government, whereby the superannuation age of the Government servants including the teachers was enhanced from 59 to 60, thereby there would be no superannuation of teachers for the next one year and accordingly, the correct statistics shall be made ready within a period of two months.

(q) Once the statistics of excess teaching staff under various category of schools as referred to above are made by taking into account



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the superannuation age of teachers as 60, such excess teaching staff identified in various category of schools with details of name of the school both Government as well as Private aided, shall be uploaded in the website / web portal of the School Education Department within the aforesated period of two months.

(r) Once such information are uploaded in the web portal by the Education Department, after verifying the same, the private aided schools, both minority and non-minority can point out any wrong information if given with regard to the identification of the excess teaching staff in the concerned school and such intimation or clarification can be given by the school concerned through the management to the DEO / CEO concerned within a period of one month thereafter.

(s) On receipt of such objections, information / clarification from the school concerned with regard to the alleged wrong information provided by the State Government / Education Department in the web portal as indicated above, the same shall be verified and rectified by the Education Department, within one month thereafter.

(t) This exercise shall be completed on or before 31st July 2021, so that the identification of excess staff and follow up action as indicated in the compendium of schedule herein above can be undertaken and be followed strictly.

(u) Till such excess teaching staff are identified under all category of schools as indicated above, no recruitment shall be made by the State Government / Education Department for the purpose of appointment of teachers under various categories like Secondary grade teacher, Graduate teacher, Post-Graduate teacher, Language teacher, Physical education teacher etc.,

(v) Like that insofar as aided minority institutions are concerned,if



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it is a stand alone institution, their right of appointing a teacher in a vacancy within the sanctioned strength for the academic year 2021-22 shall not be affected because of the identified excess teachers in other schools. At the same time, even if the school is a minority institution, however being administered by a joint management or corporate management, in respect of those schools, even though vacancy arose within the sanctioned strength of such school or schools under corporate management or joint management, those vacancies shall not be filled up unless the excess staff identified in all other schools under the same corporate or joint management are exhausted fully and only after exhausting the redeployment process on all excess teachers identified in the group of schools under the same corporate management, they shall be free to make appointment afresh from open market in the vacancy if any still, within the sanctioned strength."

24.The compendium of schedule in the aforesaid *Iruthaya Amali's* case has mandated the following obligations to be followed by the schools, Corporate Management and the educational authorities:-

Date	Corporate Management/School Management concerned	Education Dept
10 th August		Fixation of staff strength of school concerned
15 th August		Intimation of staff strength to the respective schools
25 th August	Schools to submit objections, if any, to staff fixation	
5 th September		Final order of staff fixation with provisional order for identification and re-deployment of excess staff to be issued



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15 th September	School under corporate management to give consent to the provisional order dated 5th September of every academic year	
25 th September		Final redeployment order to be made
30 th September	Redeployment to be effected to the respective schools	
10 th October		If still, excess staff are available excess teachers to be redeployed beyond corporate management to any school located in the same Educational District or Revenue District and even beyond if still excess staffs are available.
15 th October	Redeployment to be effected. No redeployment of teacher shall be made or given effect to, beyond 15 th October.	

25.However, in the instant case, during the academic year 2018-2019, final redeployment order was issued by the authorities concerned on 14.02.2019. During the academic year 2023-2024, Tirunelveli District Educational Officer (Elementary) issued final redeployment order on 10.01.2024, Valliyur District Educational Officer (Elementary) issued final redeployment order on 23.01.2024 and Valliyur District Educational Officer (Elementary) issued final redeployment order on 30.01.2024 with respect to the redeployment of surplus teachers in the education Districts of Tirunelveli, Valliyur and Tenkasi respectively. For the academic years from 2015-2018, the final redeployment orders were not at all issued by the authorities concerned, with respect to the TDTA management is concerned.



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While being so, the department had referred a Special Leave Appeal which was pending before the Hon'ble Apex Court as against the judgment of the Division Bench in the batch of petitions in W.A.(MD)No.76 of 2009, batch, in Petition(s) for Special Leave to Appeal (C) No(s).15702 of 2021. The said SLP was disposed on 16.02.2024 and the relevant portion of the same is extracted as follows:-

“2.The counsel would refer to this Court's proceedings dated 27.09.2023 and the earlier proceeding dated 10.08.2022 to point out that following the liberty granted in Clause (m) of Paragraph 95 in the impugned judgment dated 31.03.2021, the Tamil Nadu Private Schools (Regulation) Act, 2018 and Rules were enacted w.e.f. 20.01.2023. Thus the enacted laws will govern the process of approval for teachers in the concerned schools provided the individual and the school concerned satisfy the criteria laid down in the 2023 Regulations.

3.However, the above 2023 Regulations and the Rules are subject matter of challenge before the Madras High Court and an interim order was passed therein on 21.04.2023, ordering status quo on the operation of the 2023 Regulations.

4.The suggestion made by the two senior counsel to this Court is to relegate the parties to the pending proceedings in the Madras High Court. It is however submitted that the Division Bench should limit itself to the core direction given in sub-clause (i) of paragraph 95 of the impugned judgment dated 31.03.2021 in the Writ Appeal (MD) No. 76 of 2019 and need not be concerned with the other aspects in the earlier judgment (31.3.2021).

5.Accepting the above submission, this matter is ordered to be closed by relegating the parties to the Madras High Court. It is made clear that the Court should decide the pending matter on



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merit without being influenced by any observation made by this Court during the pendency of the present proceeding or under the impugned order.”

26.A careful reading of the order of the Hon'ble Apex Court in S.L.P.Civil No.15702 of 2021 dated 16.02.2024, would reveal that the judgment of the Hon'ble Division Bench of this Court in the batch of Writ Petitions in W.A.(MD)No.76 of 2019 has attained finality, except as to the Clause (i) in paragraph 95 of the aforesaid judgment dated 31.03.2021, which was relegated back to the Hon'ble Division Bench of this Court for reconsideration.

27.The Hon'ble Division Bench of this Court in W.A.(MD)No.1557 of 2023 in the case of the **State of Tamil Nadu represented by its Principal Secretary, Department of School Education, Chennai and others versus C.Essaki Muthu and another**, by its judgment dated 21.09.2023, has held that the judgment of the Hon'ble Division Bench in W.A.(MD)No.76 of 2019, batch dated 31.03.2021, is prospective in nature and the relevant portion of the same is extracted as follows:-

“11. There is no quarrel over the proposition that the questions as to whether the school should be taken as a unit or the educational agency as such should be taken as the unit for determining the surplus teachers and whether if the surplus teachers are available in the district, appointments can be made, have been considered in detail by the Hon'ble Division Bench of this



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Court in Iruthaya Amali's case. It is also not in dispute that after detailed consideration of the issue, the Hon'ble Division Bench of this Court has held that only the concerned school alone and not the education agency should be taken as a unit while determining the surplus and that until the surplus teachers available in the district are redeployed, no appointment can be made by the aided schools. The said judgment came to be delivered on 31.03.2021.

12. It cannot also be disputed that any judgment is retrospective unless it is rendered prospective. Useful reference can be made in this regard to the Judgment of the Hon'ble Supreme Court of India in Assistant Commissioner of Income Tax, Rajkot -Vs- Saurashtra Kutch Stock Exchange Limited⁵ to paragraphs 35 -37.

15. Because of the above position, even though an interim order was granted on 10.04.2019 pending the above decision not to approve the appointments, the Division Bench had not negated or stated anything about the fate of those appointments of which approvals were pending. It is to be seen that the earlier interim order given by another Coordinate Bench was also nullified and the G.O.Ms.No.165 which was issued pursuant to the earlier order was also expressly declared to be inoperative.

16. The Hon-ble Division Bench was consciously did not nullify the appointments made earlier since it establishes a new norm to prevent administrative chaos and even directs framing of rules and it is not a simple case of upturning an earlier decision or ruling, by which it can be applied retrospectively to all pending cases. The findings of the Division Bench and the directions given depend on each other and without following the compendium of schedule, information of the school, etc, in isolation, the appointment which was made even prior to the interim order by the Hon-ble Division bench cannot be construed as having been affected by the judgment in Iruthaya Amali-s case.



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17. More so, whether the appointment which is made pursuant to an express permission can be refused approval or not was also not an issue in Irudaya Amali-s case and thus would result in a great hardship and undue prejudice by applying the ratio to the a case where the appointment itself was made after express permission. Accordingly, we hold that the appointment of the writ petitioner cannot be refused citing the directions given in Iruthaya Amali-s case. As a matter of fact even in the impugned order, the appellants/respondents were not clear as to whether Iruthaya Amali-s case is applicable or not and that in view of the pronouncement since the Government has not come clear with the clarification they are not approving. Further, it can be seen that there was no redeployment of any teacher at all to the second respondent school and on the contrary, the appellants gave express permission for the second respondent school to fill up the vacancy.

18. The impossibility of retrospective or retro active application of directions in a Judgment has been considered by the Hon-ble Supreme Court of India in Goan Real Estate Construction Limited and Another ~Vs~ Union of India and it is specifically held in paragraph 31 that the Judgment should be read in the context and its entirety and the observations should not be applied out of context. In paragraph 39 it is held that the nature of directions should be considered to give prospective effect. In paragraph 34 it is held that whenever a new norm is established the ability to retrospectively effectuate the new rule should be considered. Thus, applying the dictum, it can be seen that the Division Bench had consciously did not nullify the appointments pending approval.”

28. In another batch of cases in W.P.No.3194 of 2020, 3437 and 3439 of 2020, batch, this Court, by its order dated 18.04.2022, held that the



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judgment of the Hon'ble Division Bench of this Court, in batch of Writ Appeals in W.A.(MD)No.76 of 2019, etc, is prospective and the relevant portion of the same is extracted as follows:-

“8. According to the learned Additional Advocate General, the State Government has preferred an appeal before the Hon-ble Supreme Court in Special Leave to Appeal (C) No.15702 of 2021 as against the judgment passed by the Division Bench of this Court in the Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc. and obtained stay insofar as Clause (i) of paragraph 95 of the said judgment. Except the aforesaid clause (i) of paragraph 95, there was no stay in respect of remaining portion of the judgment. It is agreed by the learned Additional Advocate General that the writ petitioners were appointed prior to the G.O.Ms.No.165 dated 17.9.2019 and therefore, it can be considered and an appropriate order may be passed.

9. On perusal of the judgment of the Division Bench of this Court in the aforesaid Batch of cases and also the G.O.Ms.No.165 issued by the School Education Department, dated 17.9.2019, both the judgment as well as G.O.Ms.No.165 are prospective in nature. The appointments made by the School Management in the instant writ petitions are prior to the issuance of G.O.Ms.No.165 dated 17.9.2019 and proposals for the said appointment were also forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, there is no legal impediments for the respondents to accord approval to the appointment made by the School Management in the instant writ petitions.

10. Having regard to the rival submissions of the parties, taking note of the judgment passed by the Division Bench of this Court in a Batch of Writ Appeals in W.A.(MD) No.76 of 2019, etc.,



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G.O.Ms.No.165 issued by the School Education department, dated 17.9.2019 will not prohibit the educational authorities to approve the appointment made by the School Management in the instant writ petitions since the proposals for approval of appointment made by the School Management were forwarded to the educational authorities prior to the issuance of G.O.Ms.No.165 dated 17.9.2019. Therefore, this Court is of the view that the respondent department without considering the G.O.Ms.No.165 dated 17.9.2019 in proper perspective and passed the impugned order rejecting the proposals submitted by the School Management. Therefore, the impugned orders passed by the respondent department are liable to be quashed.

11. Accordingly, the impugned orders passed by the respondent department in the aforesaid writ petitions are quashed and remitted to the Chief Educational Officers/District Educational Officers concerned, to consider and pass an order of approval of the appointment made by the School management, provided the said proposals satisfies all the norms prescribed for such appointments and as per the Rules, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order.”

29.It is pertinent to mention here that the Government did not prefer any Appeal as against the order of the learned Single Judge, who passed the order in W.P.No.3194 of 2020, batch and hence, the said proposition that the judgment of the Hon'ble Division Bench of this Court in W.A.(MD)No.76 of 2019, batch, is prospective in nature, has become final.

30.Coming back to the instant case, respectfully fortified by the



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decisions of this Court in the judgments extracted supra, considering the fact that the Hon'ble Division Bench consciously did not nullify the appointments made earlier to the judgment, dated 31.03.2021 and taking into consideration that the authorities concerned failed to issue deployment orders in terms of G.O.Ms.No.525, School Education Department, during the academic years 2015 to 2018, with respect to the schools run by the TDTA corporate management, since all the appointments pertaining to each and every Writ Petition before me are the appointments, which are made by the corporate management in the sanctioned vacancies of the respective schools, I have no hesitation to hold that the appointments of each and every petitioner herein, who are appointed before 31.03.2021 will not be affected either by the mandates of G.O.Ms.No.165, School Education Department dated 17.09.2019 or the judgment of the Honourable Division Bench in *Iruthaya Amali's* case.

31.In view of the same, I am of the considered view that the respondent authorities are at the obligation to approve all the appointments with respect to those petitioners who were appointed prior to 31.03.2021 forthwith from the date of their appointment within a period of four weeks from the date of receipt of copy of this order. As far as the appointments made after 31.03.2021, the same has to be dealt with separately taking into consideration the directions in the compendium of schedule in the batch of Writ Petitions in W.A.(MD)No.76 of 2019 dated 31.03.2021.



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Epilogue:-

32.This batch of 30 Writ Petitions pertain to the Corporate Management, namely, Tinnelvely Diocese Trust Association. The Hon'ble Division Bench of this Court in a batch of Writ Appeals in W.A.(MD)Nos.639 and 640 of 2015, batch, reported in **2015 SCC Online Madras 14263**, in paragraph 5 of the aforesaid judgment had observed that 247 primary schools and 73 middle schools were run by the Corporate Management, namely, TDTA. Therefore, it could be understood that as on the date of the aforesaid judgment on 17.06.2015, the said Corporate Management, namely, TDTA had under its umbrella, a total number of 320 schools. The proceedings of the Chief Educational Officer, dated 26.06.2019, would reveal that as on 26.06.2019, there are 323 schools, that is, 249 primary schools and 74 middle schools under the TDTA Corporate Management. Thus, it can be understood that in between 2015 and 2019, the respondent authorities have granted recognition to two additional new primary schools and one additional middle school to the TDTA Corporate Management. Para no.94.3 of *Iruthaya Amali's* case is extracted again as follows:-

“94.3. Insofar as the second category of issue is concerned, no doubt, by virtue of Section 14A of the Tamil Nadu Private Schools (Regulation) Act, 1973, the Institution / School which did not get aid at the time of or immediately before the academic year 1991-92 may not be entitled for such grant after 1991-92. However if schools which were getting aid from the Government for teaching and non-teaching staff either at the time of or just before the



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commencement of the academic year 1991-92 shall continue to receive the teaching aid subject to the fixation of staff strength in every academic year. In those schools which are getting aid continuously even beyond 1991-92, in case of any additional class or sections are opened, on need basis, because of the enhancement of admissions in the school concerned, even those additional standard or additional section shall not be entitled to get teaching grant.”

33.The sanction of teaching grant/sanction of additional post/staff fixation are carried out by the respondent authorities only in terms of the mandates of G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, since issuance of the aforesaid Government Order. At this point, it is interesting to understand that when the Government had made its intentions clear that it is difficult for the Government to support the newly established schools due to budgetary/financial constraints since 1980, in the aforesaid Government Order and has in fact barred grant-in-aid for new schools after the academic year 1991-1992, it is ridiculous as to how the respondent authorities granted recognition to two new primary schools and one middle school run/administered under the TDTA Management, after 2015.

34.Coming to the *lis* in hand, among the 30 cases, 22 writ petitioners are appointed between 2015 and 2019. From the various proceedings of the respondent authorities placed before me, it could be understood that post 2013-2014, though the Corporate Management, namely, TDTA, claim that



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the respondent authorities have neither issued orders of staff fixation nor orders of deployment of surplus teachers, the counsel for the respondent authorities have placed before me, the details of surplus teachers working in the various schools under the TDTA Management for the academic years from 2011-2012 to 2023-2024. The Corporate Management however defies the same by contending that the aforesaid list of surplus teachers were not served upon them. But the records placed before me by the rival parties would make it clear that, after 2013-2014, till 2019 deployment orders were never ever passed by the respondent authorities. It is a mandate of the Government Order in G.O.Ms.No.525 that both the staff fixation as well as the redeployment of staff in schools shall be done only by the District Educational Officer in respect of elementary-middle school or the officers authorized by them. Unless and until staff fixation orders and deployment orders are passed by the officers concerned, the schools/Corporate Management cannot effect redeployment of surplus teachers even if identified. Remaining idle without serving the staff fixation orders on the Corporate Management/respective schools and without issuing deployment orders from time to time for every academic year, the respondent authorities have facilitated the various petitioners before me to file all these Writ Petitions by either returning or rejecting their proposals seeking approval of their appointment in the respective schools under the TDTA management. It can be seen that the Chief Educational Officer, Tirunelveli, vide proceedings in Na.Ka.No.12248/E1/2018, dated 14.02.2019, directed the TDTA



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Management to deploy the surplus Teachers and duly the Management had deployed the surplus teachers on 19.02.2019, which was later, vide proceedings in Na.Ka.No.1335/E1/2018, dated 26.06.2019, passed by the Chief Educational Officer, Tirunelveli, came to be approved. Interestingly, it is only in this proceeding of the Chief Educational Officer, Tirunelveli, in Na.Ka.No.1335/E1/2018, dated 26.06.2019, approving the deployment effected by the Management the information as to the total number of primary/middle schools functioning under the TDTA Management is found. That apart, evasively the aforesaid Chief Educational Officer, Tirunelveli, had stated that after 2012-2013, the TDTA Management had not deployed the surplus teachers in terms of the staff fixation made by the respondent authorities till the academic year 2017-2018 and thereafter, only for the during the academic year 2018-2019, based on the staff fixation deployments came to be effected.

35.Conveniently in the aforesaid proceedings, the Chief Educational Officer had failed to mention that only because deployment orders were not passed by the competent authorities, the TDTA management was unable to deploy their surplus Teachers to the various schools under the said management. Even thereafter for the academic years 2019-2020, 2020-2021 and 2021-2022, the deployment orders were not passed by the competent authorities. Later, only during the academic year 2023-2024, the staff fixation as well as deployment orders were passed and duly the TDTA



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Management has also effected deployment in terms of the direction of the authorities. However, the orders as to grant of approval for deployment for the academic year 2022-2023 has not been passed by the authorities so far. It is only under these circumstances various proposal seeking approval of appointment came to be returned and rejected by the respondent authorities giving way to all the petitioners herein to knock the doors of this Court seeking justice. Except the writ petitioner in W.P.(MD)No.165 of 2024, all the other writ petitioners were appointed before the judgment of the Hon'ble Division Bench of this Court in W.A.(MD)No.76 of 2019 dated 31.03.2021, in which a compendium of schedule with directions to the respondent authorities with respect to staff fixation as well as deployment came to be made by this Court.

36.As elaborately discussed supra, the aforesaid judgment is only prospective in nature. That apart, the Hon'ble Division Bench consciously did not nullify the appointments made earlier to the aforesaid judgment. There can be no quarrel as to the fact that approval to appointments made against sanctioned posts cannot be denied merely because of the fact that certain posts are available and certain surplus posts are available in the other schools under the same management. The respondent authorities having willfully failed to pass orders of staff fixations and the orders of deployment in terms of G.O.Ms.No.525, dated 29.12.1997, during the period from 2015 to 2022, in that case, this Court is left with no other option



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rather allowing all these Writ Petitions, in the background of the fact that all the writ petitioners are appointed only in sanctioned vacancies respectively.

W.P.(MD)No.165 of 2024:-

37.The petitioner is working as a Secondary Grade Teacher in the fourth respondent School which is managed by the TDTA Corporate Management. One post of Secondary Grade Teacher in the fourth respondent School fell vacant due to the retirement of the previous incumbent Mrs. Jhansi Rani on 28.02.2023. In the said vacancy, the petitioner was appointed as Secondary Grade Teacher with effect from 12.04.2023. The petitioner is fully qualified for the post and she possessed D.T.Ed and also qualified in TET qualification. The School submitted the proposal to the second respondent through the third respondent on 07.10.2023, requiring to approve her appointment as Secondary Grade Teacher with effect from 12.04.2023. The third respondent returned the proposal vide proceedings in O.Mu.No.1168/A2/2023, dated 14.11.2023, for the reason that the proposal shall be considered only after the issuance of guidelines by the first respondent with regard to the approval of the Secondary Grade Teacher. Challenging the same, this Writ Petition came to be filed.

38.No doubt, the appointment of the petitioner came to be effected on 12.04.2023, i.e., after the date of judgment in *Iruthaya Amali's* case in W.A.



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(MD)NO.76 of 2016, batch dated 31.03.2021. The directions issued in para no.95 under compendium of schedule in the aforesaid judgment has been tested before the Hon'ble Apex Court in Special Leave to Appeal (C) No(s). 15702 of 2021, dated 16.02.2024 and the judgment passed by the Hon'ble Division Bench of this Court in *Iruthaya Amali* and the directions in para no. 95 except para no.95(i) has been confirmed by the Hon'ble Apex Court and has attained finality.

39.The instant *lis* is not in connection to para no.95(i) of the *Iruthaya Amali's* case. Since the matter is all about the approval of the appointment of the petitioner made after the date of judgment in *Iruthaya Amali*, the same has to be dealt with in terms of the Hon'ble Division Bench of this Court in *Iruthaya Amali*. The Compendium of Schedule in para no.95 of *Iruthaya Amali's* case mandates that the authorities concerned should conclude the staff fixation of the Corporate Management by 10th August of every academic year and by 15th August, the intimation of the staff strength be given to the respective schools. The schools are expected to submit their objections, if any to staff fixation on or before 25th August. Based on the same, by 5th August of every academic year, final order of staff fixation with provisional order for identification and redeployment of surplus staffs are to be issued by the Education Department. By 15th September, the school under the Corporate Management should give consent to the provisional order dated 5th September of every academic year. On the basis of the same by 25th



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September, final redeployment order should be made by the Education Department. The respective schools should comply the final redeployment by 30th September.

40.In the instant case, the appointment of the petitioner was made on 12.04.2023, the proposal seeking appointment of the petitioner was forwarded on 07.10.2023 to the second respondent through the third respondent. The Corporate Management has filed a report dated 18.03.2024, before this Court.

41.A careful perusal of the materials available on record including the various proceedings before me by respondent authorities, it could be understood that the petitioner came to be appointed during the academic year 2022 - 2023. The District Educational Officer (Elementary), Tirunelveli, vide proceedings in Na.Ka.No.0087/Aa3/2022, dated 16.03.2023, on the basis of staff fixation passed the order of deployment and communicated the same to the Manager of TDTA Corporate Management. Following which, on 10.04.2023, TDTA Corporate Management had relieved the surplus Teachers from the respective Schools under the said Corporate Management in terms of the deployment order passed by the District Educational Officer (Elementary), dated 16.03.2023. Thereafter, the deployed Teachers joined service in the respective schools to which they were deployed in the forenoon of 11.04.2023, thereby, completing the process of deployment within the



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Corporate Management. After exhausting the surplus Teachers. the same was communicated by the Corporate Management to the Educational authorities on 11.04.2023. However, even after the submission of the redeployment details effected by the Corporate Management on 11.04.2023, the same was not verified and approved by the Educational Authorities. It can be understood that only after completely deploying the Teachers in terms of the order of the District Educational Officer (Elementary) on 16.03.2023, the petitioner came to be appointed in the fourth respondent School on 12.04.2023. Once the redeployment has been completed by the Corporate Management, it is the bounden duty of the Officers concerned to verify the same and approve with immediate effect. In the instant case, the said exercise has not been done by the second respondent. In view of the same, the impugned order is hereby quashed and consequently the second respondent is directed to verify the intimation submitted by TDTA Corporate Management on 11.04.2024 and if the same is found in order, approve the appointment of the petitioner within a period of four weeks from the date of receipt of copy of this order.



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42.In view of the above, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

- 1.The Secretary to Government,
School Education Department, Chennai.
- 2.The Director of Elementary School Education,
D.P.I. Compound,
College Road, Chennai.
- 3.The District Educational Officer (Elementary),
Tenkasi District,
Tenkasi.
- 4.The Block Educational Officer,
Kuruvukilam Range,
Tenkasi District.
- 5.The Correspondent,
TDTA V.M.Middle School,
Vagaikulam,
Tenkasi District.
- 6.The Chief Educational Officer,
Tirunelveli District.
- 7.The Chief Educational Officer,
Tenkasi District.



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L.VICTORIA GOWRI, J.

Mrn

W.P.(MD)Nos.25280, 25285, 25286, 25287, 25288, 25281, 25282, 25283, 25284 of 2023, 165, 197, 657, 713, 715, 716, 714, 1878, 3477, 3712, 3715, 3716, 3717, 3718, 5782, 3713, 3714, 3735, 5528, 5623 and 5760 of 2024

11.09.2024