



W.P.(MD)No.11582 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.08.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.11582 of 2017

and

W.M.P.(MD)Nos.8924 & 8925 of 2017

The Secretary,
Nadar Saraswathi Higher Secondary School,
Theni, Theni District.

... Petitioner

/Vs./

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

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

3.The District Educational Officer,
Periyakulam, Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of 2nd respondent Chief Educational Officer in R.C.No.2448/B2/2017 dated 19.05.2017 and Quash the same and further direct the 2nd respondent CEO to accord permission to the petitioner forthwith for filling up the third post of Physical Education



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Teacher which had fallen vacant on 11.06.2010 on account of the promotion of the previous incumbent R.Asariya Rajamani and to approve the appointment of the present incumbent made therein K.Logeshwaran.

For Petitioner : Mr.K.Ragatheesh Kumar
M/s.Isaac Chambers
For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 19.05.2017 passed by the second respondent rejecting the petitioner's request for granting permission for the third post of Physical Education Teacher in their school on the ground that as on the date of the request, the petitioner's school has already been granted approval in respect of three posts of Physical Education Teachers (1 post of Physical Director and 2 posts of Physical Education Teachers).



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2. According to the second respondent, as per G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, maximum approval that can be granted for Physical Education Teachers is three, which includes one post of Physical Director.

3. The learned counsel appearing for the petitioner drew the attention of this Court to a Division Bench judgment of this Court in the case of *Director of School Education, Chennai – 600 006 and Others vs. K.Uma* reported in *2010 (2) MLJ 277* and would submit that it has been made clear in the said judgment that there cannot be any ceiling limit with regard to strength of teachers, as the same is bound to vary / increase as per the strength of the students. He would further submit that it has also been made clear in the said decision that when the students strength is increased, ceiling has to be removed and required Physical Education Teachers have to be appointed, otherwise the students would suffer irreparably. The Government Order, in G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997 would go against the very scheme of the said Government Order. He would also submit that in the aforesaid decision, it has been held that G.O.Ms.No.525, School



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Education (D1) Department, dated 29.12.1997, which has been applied by the respondents while rejecting the petitioner's request must be given a liberal interpretation.

4. On the other hand, the learned Government Advocate appearing for the respondents would reiterate the contents of the counter affidavit filed by the second respondent before this Court and would submit that only in accordance with G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, the petitioner's request has been rightly rejected under the impugned order. According to him, as per said GO, the post of Physical Education Director is a promotional post from that of the Physical Education Teacher and therefore, as per GO, the maximum Physical Education Teachers, a school can have is three, which includes the post of Physical Education Director.

5. The Division Bench of this Court, in the case of ***Director of School Education, Chennai – 600 006 and Others vs. K.Uma*** reported in ***2010 (2) MLJ 277*** relied upon by the learned counsel appearing for the petitioner, has considered the applicability of the GO.Ms.No.525,



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School Education Department, dated 29.12.1997 with regard to approval for the appointment of Physical Education Teachers / Physical Director. In the said decision, the Division Bench, in paragraph Nos.23 and 24 of its decision has held as follows:-

“23. As stated above, the normal understanding of the above government order with regard to Physical Education Teachers is that the High Schools would have maximum number of three Physical Education Teachers and Higher Secondary School would be added one more Physical Education Director in the name of Physical Education Director. However there cannot be any ceiling with regard to the strength of teachers as the same is bound to vary/increase as per the strength of the student's. When the student strength is increased, the ceiling has to be removed and required more Physical Education Teachers are to be appointed, otherwise the students would suffer irreparably and the government order would go against the very scheme of education.

24. Hence G.O.Ms.No. 525 needs to be given a liberal interpretation and the government is at liberty to reconsider the matter and issue reasonable viable and appropriate norms with regard to appointment of physical education teachers in the schools as per the strength of students, considering the observations made by this court expeditiously.”



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6. As seen from the aforementioned paragraphs, it is clear that liberal interpretation will have to be given to G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997. Admittedly, G.O.Ms.No. 525, School Education (D1) Department, dated 29.12.1997 provides for the post of Physical Education Teacher as well as the post of Physical Director. Apart from issuing guidelines for the post of Physical Education Teacher as well as the post of Physical Education Director, the said GO also deals with the ratio of the students and teachers.

7. According to the petitioner, the respondents have interpreted Rule III (c) and the Rule IV (f) prescribed under G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997 erroneously, by holding that the petitioner is not entitled for seeking approval for the appointment of K.Logeswaran as Physical Education Teacher, since the sanctioned limit of three as prescribed under Rule III (c) of G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997 has already been reached. The Division Bench judgment of this Court, in the aforesaid decision relied upon by the learned counsel appearing for the petitioner has directed the authorities to give liberal interpretation to G.O.Ms.No.525,



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School Education (D1) Department, dated 29.12.1997 for the purpose of achieving the objective for issuance of the said Government Order.

8. Admittedly, the post of Physical Director is very much available under G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997. Rule III (c) of G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997 also talks about only Physical Education Teacher and it is made clear that the post of Physical Education Teacher will be sanctioned subject to a maximum of three. Rule III (c) of G.O.Ms.No.525, dated 29.12.1997 is reproduced hereunder:-

“III.HIGH SCHOOLS (Standards IX to X)

.....

(c) When the strength in classes VI to X in High Schools exceeds 250. One post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Education Teacher will be sanctioned subject to a maximum of 3.”

9. The petitioner in his proposal has submitted that they are only having two Physical Education Teachers, which is not sufficient and under those circumstances, they have sought for approval for the third



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post Physical Education Teacher post as per Rule III (c) of G.O.Ms.No. 525, School Education (D1) Department, dated 29.12.1997. It has been rejected under the impugned order by giving the reasons as stated supra. However, as seen from the very same GO, namely, G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, Rule IV (f) of G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997 makes it clear that the petitioner school is also entitled to seek approval for appointment for the post of Physical Director stating that the said post will be an upgradation post from the existing post of Physical Education Teacher. The said rule is reproduced hereunder:-

“IV.HIGHER SECONDARY SCHOOLS (11th and 12th Standards)

.....

(f) For Schools with a strength of over 400, one post of Physical Director will be given by up gradation of existing post of Physical Education Teacher.”

10. Admittedly, while rejecting the petitioner’s proposal for seeking approval for appointment of the third Physical Education Teacher, the decision rendered by the Division Bench of this Court in the



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case of ***Director of School Education, Chennai – 600 006 and Others vs. K.Uma*** reported in ***2010 (2) MLJ 277*** has not been considered and in the said decision, it has been made clear that liberal interpretation will have to be given to G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, in the interest of Physical Education of the students.

11. Since G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997 provides for seeking approval for the post of Physical Education Teacher as well as the post of Physical Director and since under the impugned order, the second respondent has not given due consideration to the Division Bench Judgment of this Court relied upon by the learned counsel appearing for the petitioner in the case of ***Director of School Education, Chennai – 600 006 and Others vs. K.Uma*** reported in ***2010 (2) MLJ 277***, wherein the Division Bench has directed the authority to give a liberal interpretation of G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, this Court is of the considered view that the impugned order passed by the second respondent has to be quashed and remanded back to the very same respondent for fresh consideration on merits and in accordance with law,



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in the light of the decision rendered by the Division Bench of this Court in the case of ***Director of School Education, Chennai – 600 006 and Others vs. K.Uma*** reported in ***2010 (2) MLJ 277*** within a time frame to be fixed by this Court.

12. Accordingly, the impugned order passed by the second respondent dated 19.05.2017 is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law. The second respondent is directed to pass final orders after giving due consideration to the decision rendered by the Division Bench of this Court in the case of ***Director of School Education, Chennai – 600 006 and Others vs. K.Uma*** reported in ***2010 (2) MLJ 277*** within a period of eight weeks from the date of receipt of a copy of this order. This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

20.08.2024

Index : Yes / No
NCC : Yes / No
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WEB CODE **TO:**

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ABDUL QUDDHOSE, J.

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