



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 07.08.2025**

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**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.15909 of 2012**

Mr.S.Kumaresan

... Petitioner(s)

Vs.

1. The State of Tamil Nadu,  
Represented by its Secretary,  
Education Department,  
Fort St. George, Chennai – 600 009.
2. Director of School Education,  
DPI Compound, College Road,  
Chennai – 600 006.
3. The Joint Director,  
School Education Higher Secondary,  
DPI Compound, College Road,  
Chennai – 600 006.
4. The Chief Educational Officer,  
Panagal Building Saidapet,  
Chennai District, Chennai – 600 015.
5. The District Educational Officer,  
Chennai East, Choolaimedu High Road,  
Choolaimedu, Chennai – 600 094.
6. The Secretary/ Correspondent,  
Sri Kanyaka Parameswari Devasthanam and



Charities Boys Higher Secondary school,  
Chennai – 600 001. ... Respondent(s)

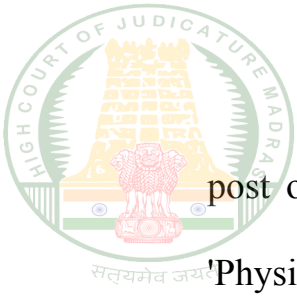
**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the letter number 36637/D1/2010-2 dated 22.06.2011 of the first respondent and addressed to the petitioner, quashing the same and consequently directing the respondents 1 and 3 to upgrade the post of Physical Education Teacher held by the petitioner in the sixth respondent School to the post of Physical Director Grade-I from the year 1987 or any other date as this Hon'ble Court deems correct.

For Petitioner(s) : Mr.C.Johnson  
For R1 to R5 : Ms.Akila Rajendran

### **ORDER**

The brief facts that are relevant for disposal of this writ petition are as under:-

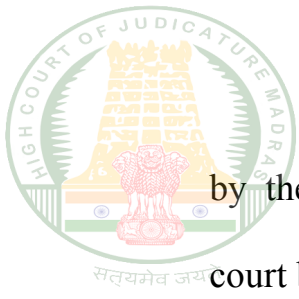
1.1. The petitioner herein was appointed as 'Physical Education Teacher' in the sixth respondent school on 16.10.1981, which is a recognized Linguistic Telugu Minority Government-aided Higher Secondary School. While the petitioner was working as such, the Government issued G.O (Ms) No.525, School Education (D1) Department, dated 21.12.1997, revising the norms for assessment for grant for teaching posts in the recognized private schools. In terms of the said Government Order, especially Paragraph No.5, for the Higher Secondary Schools having a student strength of over 400, one



post of 'Physical Director' will be given by upgrading the existing post of 'Physical Education Teacher'.

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1.2. Though the petitioner has been making a claim to appoint him as 'Physical Director, Grade-II', considering the student strength of the sixth respondent school, after issuance of G.O (Ms) No.525, School Education (D1) Department, dated 21.12.1997, the petitioner made a representation for upgradation to the post of 'Physical Director' for the first time only on 16.07.2010 and thereafter approached this court by filing W.P.No.19150 of 2010, complaining the inaction of the respondents in considering the said representation dated 16.07.2010. The said writ petition was disposed of by an order dated 01.10.2010, directing the respondents to consider the representation submitted by the petitioner. Accordingly, the said representation was considered by the respondents. However, the claim of the petitioner was rejected by passing the proceedings bearing கடிதம்.எண்.36637/டி1/2010-2, dated 22.06.2011, on the ground that the sixth respondent school is not satisfying the criteria for upgradation of the post of 'Physical Education Teacher' to that of 'Physical Director', as the said school is having less than 400 students for Classes XI and XII. It is aggrieved



by the said proceedings dated 22.06.2011, the petitioner approached this court by filing the present writ petition.

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2. The respondents filed a counter-affidavit contending that, in terms of G.O (Ms) No.525, dated 21.12.1997, especially Paragraph No.5, a Higher Secondary School, it Classes XI and XII. Admittedly, the students strength of the sixth respondent school is less than 400 for any year after 1997-1998 for Classes XI and XII and therefore, the petitioner is not entitled for upgradation of the post of 'Physical Education Teacher' to that of 'Physical Director' in terms of G.O (Ms) No.525, dated 21.12.1997. It is further stated that, in terms of G.O (Ms) No.73, School Education (D1) Department, dated 19.03.2010, the upgradation of the post of 'Physical Education Teacher' to that of 'Physical Director' will arise only in case if there are three posts of 'Physical Education Teacher' in a particular school.

3. Heard Mr.C.Johnson, learned counsel for the petitioner and Ms.Akila Rajendran, learned Government Advocate appearing for the respondents 1 to 5 and also perused the entire material available on record.



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4. The learned counsel for the petitioner placed strong reliance on a decision rendered by a Co-ordinate Bench of this court in W.P.No.35922 of 2005 dated 21.12.2009, to state that a Higher Secondary School means 'up to XII Standard either from I-Class, VI-Class, VIII-Class or IX-Class, but not only XI-Class and XII-Class'. According to the learned counsel for the petitioner, sixth respondent school, at all the times has maintained more than 400 student strength, which consists of VI-Class to XII-Class.

5. Further, it is also brought to the notice of this court that the order dated 21.12.2009 passed in W.P.No.35922 of 2005 has been confirmed by the learned Division Bench of this court in W.A.No.1997 of 2018, by an order dated 20.09.2018. It is further brought to the notice of this court that the order passed by the learned Single Judge referred to above has been complied with by the respondents. Further some other orders, wherein this court directed the granting of upgradation of the post of 'Physical Director', in case if the schools satisfy the student strength criteria in terms of G.O (Ms) No.525, dated 21.12.1997 were also brought to the notice of this court.

6. On the other hand, Ms.Akila Rajendran, learned Government



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Advocate, submitted that G.O (Ms) No.525, dated 21.12.1997, itself defines Higher Secondary School means XI-Class and XII-Class alone and, as such, the upgradation of the post of 'Physical Education Teacher' can be claimed only in case if the student strength of XI-Class and XII-Class is more than 400, but not by taking into consideration the strength of the lower classes. Insofar as the order passed in W.P.No.35922 of 2005, dated 21.12.2009, is concerned, the learned Government Advocate could not dispute the fact that the said order has attained finality. She also further contended that, in terms of G.O (Ms) No.73, dated 19.03.2010, the upgradation to the post of 'Physical Director' can be claimed only in case if there are three posts of 'Physical Education Teachers' in a particular school, but not otherwise.

7. This court has carefully considered the submissions made on either side.

8. From the perusal of Paragraph No.5 (IV) in G.O (Ms) No.525, dated 21.12.1997, it is seen that the Higher Secondary School is defined as 'only XI-class and XII-class' and, accordingly, the cadre strength of the teachers, including the 'Physical Education Teacher', is fixed by the Government. If the



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provisions of the said Government Order are to be applied in their strict sense, in order to claim upgradation of the post of 'Physical Education Teacher' to the post of 'Physical Director', the student strength of XI-class and XII-class alone should be more than 400. That appears to be the plain reading and understanding of the said Government Order.

9. No doubt, the Higher Secondary School was defined under the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, under Section 2(d)(ii), which consists of Classes I to XII, VI to XII or IX to XII. From the above-said definition, it is clear that the Higher Secondary School means 'upto XII-class, but not only XI-class and XII-class'. Perhaps, in the light of the above definition, a Co-ordinate Bench of this court in W.P.No.35922 of 2005 by an order dated 21.12.2009, held that the Higher Secondary School means 'upto XII-class, but not only XI-Class and XII-class'.

10. The relevant paragraph from the said order dated 21.12.2009 made in W.P.No.35922 of 2005 reads as under:-

*"6. I agree with the said submission of the learned counsel for the petitioner. As rightly pointed out by the learned counsel for the petitioner, when clause 3 contemplated a student strength of 250, with a school having classes from Standard VI to X, Clause 3 is referable*

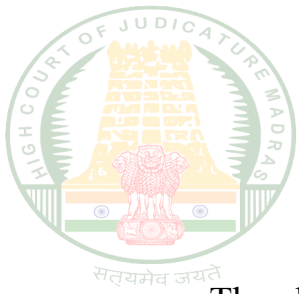


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W.P.No.15909 of



*to a case of a high school having classes upto Standard X. In the case of higher secondary schools, the classes run therein has to be read as upto XII Standard. In the case of High Schools, when the contemplation of fixing the strength of Physical Education Teacher is that for the student strength exceeding 250 therein, there shall be one post of Physical Education Teacher and for every additional strength of 300, there shall be one additional post of Physical Education Teacher with a maximum of three, it stands to reason that in the case of a higher secondary school wherein the classes are upto XII standard, the student strength has to be considered as one referable not restricted to a case of Classes XI and XII alone. Reading paragraph 4 along with the earlier explanation, the idea appears to be that the strength of the school as a higher secondary school has to be taken not with reference to the standards of XI and XII alone but as a higher secondary school offering classes upto Standard XII. A reading of the Government Order shows that while in the case of a high school having upto Standard X the student teacher ratio is fixed, in respect of higher secondary school, taking note of the subjects offered as a course of study, the teacher ratio is fixed. Beyond that, as far as Physical Education Teacher is concerned, in the absence of the same given as a special subject of study, the teacher is concerned, in the absence of the same given as a special subject of study, the post has to be construed keeping in mind the total strength of the school as such and not with reference to the student strength in Standards XI and XII alone. If the argument of the respondents is to be accepted that Clause 4 refers to student strength of 400 studying in classes XI and XII alone, then that would merely introduce an element of artificial and unrealistic understanding of the Government Order that the Government restricted the reference of higher secondary school to standards XI and XII alone. Given the reason for introduction of the Government Order that on upgradation the school has to have a specific number of teachers catering to the needs of the student population, physical education being an important aspect in the school curriculum, it is but necessary that taking the clue from Clause III, in the case of Higher Secondary education, the strength has to be read as 400 in total of the higher secondary school offering study upto XII Standard and not Classes XI and XII alone. I have no hesitation in*

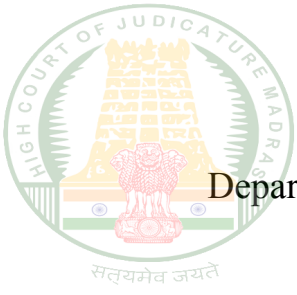


*granting the prayer of the writ petitioner, thereby quashing the proceedings dated 7.10.2005. Thus the petitioner be upgraded to the post of Physical Director.”*

The above said order is admittedly confirmed by the learned Division Bench of this court in W.A.No.1997 of 2018 dated 20.09.2018.

11. In the light of the order passed by the Co-ordinate Bench of this court, this court has no other option except to follow the same, especially taking into consideration the definition of the Higher Secondary Schools, as defined under the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974.

12. Insofar as the contention of the learned Government Advocate by placing reliance on G.O (Ms) No.73, dated 19.03.2010 is concerned, this court is unable to agree with the same, as the said Government Order only delegates power to the 'Director' to upgrade the post of 'Physical Director', if in case, there are three posts of 'Physical Education Teachers'. But that does not mandate that upgradation should take place only in case if there are three such posts. The upgradation of the post of 'Physical Education Teacher' to that of 'Physical Director' was provided under G.O (Ms) No.525, dated 21.12.1997 only, but not in G.O (Ms) No.73, School Education (D1)



Department, dated 19.03.2010.

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13. In the light of the above, this court is of the considered view that the impugned proceedings bearing கடிதம்.எண்.36637/டி1/2010-2, dated 22.06.2011 cannot be sustained as the ground on which the case of the petitioner was rejected is wholly unsustainable.

14. Then, the next issue is what relief can be granted in favour of the petitioner. It is not in dispute that the student strength of the Respondent No.5, by taking into consideration the classes from VI to XII, at any point of time after 1997, is admittedly more than 400. Therefore, the claim of the petitioner for upgradation of the post held by him i.e., 'Physical Education Teacher' to that of 'Physical Director' in terms of G.O (Ms) No.525, dated 21.12.1997, cannot be denied.

15. As it is brought to the notice of this court that the petitioner has already retired from service on attaining the age of superannuation on 31.07.2013 i.e., immediately after filing of the present writ petition, the relief sought in the writ petition is required to be appropriately moulded.



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16. In the light of the above, the impugned proceedings bearing கடிதம்.எண்.36637/டி1/2010-2, dated 22.06.2011, cannot be sustained and the same is accordingly quashed and the respondents are further directed to upgrade the post of 'Physical Education Teacher' held by the petitioner in the Respondent No.6 School with effect from the date on which the petitioner made a claim for such upgradation by submitting his representation dated 16.07.2010, and extend all other consequential benefits including the monetary benefits and terminal benefits to the petitioner and appropriate orders in this regard shall be passed by the respondents as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order.

17. Accordingly, the writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

**07.08.2025**

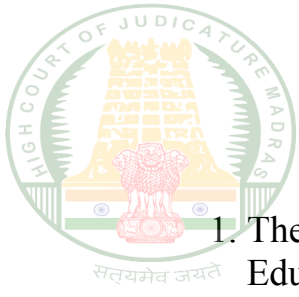
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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To



WEB COPY

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Education Department, Fort St. George, Chennai – 600 009.
2. Director of School Education, DPI Compound, College Road, Chennai –6.
3. The Joint Director, School Education Higher Secondary,  
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**MUMMINENI SUDHEER KUMAR, J.**

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W.P.No.15909 of

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