



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.07.2025

Pronounced on : 10.10.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**W.P.No.15201 of 2010**
and M.P.Nos.1 of 2010 and 1 of 2012

Shyamala Janardhanan

... Petitioner

Vs.

1. The Director of School Education,
DPI Campus, College Road, Chennai – 600 006.
2. The Chief Educational Officer,
1 Jeenis Road, Panagal Building, Saidapet, Chennai – 600 015.
3. The Principal/ Secretary, St. Ursula Anglo Indian Hr.Sec School,
Presentation Convent, Church Park, Chennai – 600 006.
4. The Inspector of Anglo Indian Schools,
Chennai – 600 006. ... Respondents
[R4 impleaded vide order dated 11.01.2013 made in M.P.No.1 of 2012]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the letter bearing No.2559/p/06 dated 20.07.2006 issued by the Inspector Anglo Indian Schools is arbitray and illegal and consequently direct the respondents to regularize the petitioner as a Computer Science Teacher in the third respondent with effect from April 1990 with all attendant benefits, including increments, arrears and pension.



[prayer amended vide order dated 05.07.2017 made in MP.No.1 of 2013]

For Petitioner : Ms.Anna Mathew
for M/s.S.Meenakshi

For R1, R2 & R4 : Mr.R.Neelakandan,
assisted by Ms.Akila Rajendran,
Government Advocate

For R3 : Ms.S.R.A.Arul Mary
for M/s.Father Xavier Associates

ORDER

This writ petition has been filed originally seeking a writ of mandamus directing the respondents 1 to 3 to treat the petitioner as a permanent teacher, B.T. Assistant or a Computer Science Teacher with due seniority and pay all other benefits from the date of her initial appointment with all consequential arrears. However, after filing of the counter-affidavits by the respondents 1 and 2 and the third respondent, the petitioner sought amendment of the prayer by filing M.P.No.1 of 2013, and the said application was ordered by this court on 05.07.2017, permitting the petitioner to amend prayer. In terms of the same, the petitioner sought for writ of declaration to declare the letter bearing No.2559/P/06 dated 20.07.2006 issued by the Respondent No.4 as arbitrary and sought for a consequential direction to the respondents to regularize the petitioner as 'Computer Science Teacher' in the Respondent No.3/ School with



effect from April, 1990 with all attendant benefits including increments, arrears and pension etc.,

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2. For better appreciation, it would be appropriate to state few facts that are relevant for disposal of this writ petition.

3. The petitioner herein was initially appointed as 'Computer Science Assistant' in the Respondent No.3/ School by order dated 02.05.1988 with effect from 14.06.1988 till April, 1989 i.e., for a period of ten months, on a salary of Rs.300/- per month as a part-time teacher. Thereafter, according to the petitioner, she worked as a full-time teacher from the year 1990, though there was no appointment order issued in her favour as such. It was thereafter, on 22.04.1992, another order of appointment was issued to the petitioner appointing her as a part-time teacher to handle Computer Science in Higher Secondary classes from 09.06.1992, on a salary of Rs.400/- per month. It was thereafter, the petitioner was continued in service till the year 2006 and her salary has been enhanced from time to time. However, she was not granted periodical increments. At that stage, during the year 2006, the petitioner started making a claim for payment of salary on par with the teachers who



were also appointed along with her. It was at that stage, the Respondent No.3/ School addressed a letter to the Respondent No.4 herein on 13.07.2006 stating that the petitioner was paid a salary of Rs.13,668/- per month in terms of her appointment order dated 22.04.1992 and also brought to the notice of the Respondent No.4 about the demand of the petitioner for payment of higher salary. The gist of the said letter dated 13.07.2006 reads as under:-

“With reference to the above, I would like to state that Ms.J.Shyamala is drawing a salary of Rs.13,668/- per month, according to the appointment letter dated 22nd April 1992, where it is mentioned that she will be paid Graduate scale of pay.

Now she is demanding the 50% merge plus increment due in April 2006 and other allowances. If this is paid to her, the salary will be Rs.16,510/- per month, which the management is unable to meet.

Kindly help us in this matter and fix the scale.”

4. In response the said letter dated 13.07.2006 of the Respondent No.3 herein addressed to the Respondent No.2, the Respondent No.4 herein sent a reply through Letter bearing No.2559/P/06 dated 20.07.2006, stating that the post of Computer Science Teacher, either on part-time or on full-time basis, has not been allotted to the Respondent No.3/ School and hence, fixation of



pay of the petitioner by the Respondent No.4 does not arise. The gist of the said order reads as under:-

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“I invite your attention to the statement showing the fixation of teaching staff of st.ursula's ALHSS Chennai -6, sent from Inspector of Anglo-Indian Schools Chennai time to time since 1992.

No teacher for computer science either on part-time basis or on full time has been allotted by the Inspector of Anglo-Indian Schools. Hence fixation of pay on behalf of M.J.Shyamala Computer Assistant does not arise.

As the individual is appointed by the management, it is left absolutely to the discretion of the management to fix the salary.”

5. While things stood thus, the petitioner approached this court by filing the present writ petition initially with a prayer as noted above and subsequently, the prayer got amended challenging the above said letter dated 20.07.2006 issued by the Respondent No.4 herein. While challenging the said letter dated 20.07.2006, the petitioner also sought for a consequential direction to the respondents to regularize the services of the petitioner as Computer Science Teacher in the Respondent No.3/ School with effect from April, 1990 with all consequential monetary benefits.



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6. The respondents 1 and 2 filed a common counter-affidavit, whereas the respondents 3 and 4 filed separate counter-affidavits.

7. The stand of the respondents 1, 2 and 4 is identical, contending that the post of 'Computer Science Teacher' in the Respondent No.3/ School was not sanctioned by the official respondents and therefore, the question of fixation of pay of the petitioner does not arise, and it is for the Respondent No.3/ School to fix the pay and pay the same to the petitioner herein. The Respondent No.3 has contended that the petitioner was appointed on part-time basis in the year 1988 and was re-appointed on 22.04.1992 on a temporary basis and continued as such and her salary is being revised from time to time by the Respondent No.3.

8. Heard Ms.Anna Mathew, learned Senior Counsel for M/s.S.Meenakshi, learned counsel for the petitioner, Mr.R.Neelakandan, learned Additional Advocate General assisted by Ms.Akila Rajendran, learned Government Advocate appearing for the respondents 1, 2 and 4 and



Ms.S.R.A.Arul Mary, learned counsel appearing for the third respondent.

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9. The order impugned in the present writ petition, in terms of the amended prayer, is dated 20.07.2006. Through the said letter, the Respondent No.4 herein responded to the request made by the Respondent No.3 in connection with the fixation of pay of the petitioner stating that the post in which the petitioner was appointed is neither a sanctioned post nor admitted to grant-in-aid and therefore, the Respondent No.4 has nothing to do with the fixation of pay of the petitioner and it is for the Respondent No.3/ School to fix the same. It is not in dispute that the post in which the petitioner was appointed is neither sanctioned nor admitted to grant-in-aid at any point of time. In the absence of the same, there is nothing to find fault with the contents of the impugned letter dated 20.07.2006 issued by the Respondent No.4. Having been confronted with the said situation, the learned Senior Counsel appearing for the petitioner contended that this court has got ample power to mould the relief depending upon the facts and circumstances of the case and advanced her arguments on various other aspects. There is no controversy insofar as the power of this court to mould the relief sought for and to grant appropriate relief as the facts of the case before this court warrant



and the law in this regard is well settled.

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10. No doubt, the petitioner sought for a consequential relief of regularization of her services with effect from April, 1990. Therefore, this court is inclined to examine the arguments advanced by the learned Senior Counsel appearing for the petitioner claiming for regularization of the services of the petitioner as 'Computer Science Teacher' in the Respondent No.3/ School on merits.

11. The learned Senior Counsel for the petitioner contended that the Government have issued orders in G.O (Ms) No.35, School Education Department, dated 09.02.2007, permitting 201 fully qualified temporary vocational teachers to be appointed in 201 Vocational Grade-II Teacher posts in the pay scale of Rs.4500-125-6000 on a priority basis. According to learned Senior Counsel, the candidates who were appointed subsequent to the petitioner as 'Vocational Teacher' have been benefited by the said Government order in various private schools, but the case of the petitioner, who was working in the Respondent No.3/ School from the year 1988, has not been taken into consideration and the benefit of the said Government Order was



erroneously not extended to her. She also further contended that the petitioner was admittedly teaching Higher Secondary classes of Computer Science, which is a mandatory subject for Higher Secondary Classes, and she also placed on record various certificates/ mark memos issued to various students to show that the subject of Computer Science is a mandatory subject in the Respondent No.3/ School. She also placed reliance on a decision of this court in the case of ***“The Correspondent, M.M Hr.Sec School and others -vs- K.Mathukumar and others”*** reported in (2007) 1 CTC 649, and contended that once it is accepted that Computer Science is a compulsory subject, the Government can be directed to sanction the post of 'Computer Science Teacher'.

12. The learned Senior Counsel for the petitioner also placed reliance on the decisions of this court in the case of ***“C.Manonmony -vs- State of Tamil Nadu”*** reported in (2006) 3 MLJ 242, and in the case of ***“St.Annes Girls Higher Sceondary School, Cuddalore -vs- The Secretary, Government of Tamil Nadu”*** in W.P.No.18827 of 2011 dated 24.02.2012 and contended that many schools have approached this court as there was no positive response from the Government for sanction of the post, and this court issued



directions. She also further contended that mere failure of the Respondent No.3/ School in claiming for sanction of post of 'Computer Science Teacher' shall not deprive the petitioner of her legitimate entitlement on par with other similarly situated persons and placed reliance on the decision of this court in the case of ***“State of Tamil Nadu and others -vs- K.Venkateshwaran”*** in **W.A.No.165 of 2019** dated **24.01.2019** and another decision reported in the case of ***“The Manager, Concordia High & Higher Secondary Schools and others -vs- Tmt.S.Christy and others”*** reported in **(2013) WLR 691**. Thus, she contended that the petitioner shall be declared to have been entitled for regularization of her services on sanction of the post of 'Computer Science Teacher' to the Respondent No.3/ School.

13. On the other hand, Mr.R.Neelakandan, learned Additional Advocate General appearing for the respondents 1, 2 and 4 contended that the post in which the petitioner was appointed is admittedly a non-sanctioned post nor there was any approval obtained by the Respondent No.3/ School for appointing the petitioner as 'Computer Science Teacher'. He further contended that, in terms of Section 14-A of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, (hereinafter referred to as ‘the Act, 1973), as amended



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through the Tamil Nadu Act No.11 of 1999, the question of admitting any private school or class or course of instruction to grant-in-aid from the academic year 1991-1992 is not permissible, and the same cannot be claimed as a matter of right. He also placed reliance on a decision of a learned Division Bench of this court in the case of ***“Maria Grace Rural Middle School -vs- The Government of Tamil Nadu”*** reported in (2006) 5 CTC 193, wherein the validity of Section 14-A of the Act, 1973 was upheld by this court. He also further contended that the question of extending the benefit that was granted in favour of various other teachers in terms of G.O (Ms) No.35, dated 09.02.2007 in favour of the petitioner does not arise, as there was no claim from the Respondent No.3/ School either for admission of the post in which the petitioner has been working to aid or for sanction of the said post at any point of time. He also further contended that the examination of claim of the petitioner for regularization or for sanction of post etc., cannot be considered by this court in the absence of any appropriate pleadings, both on factual aspects as well as legal aspects, and that to without affording an opportunity to the respondents to meet such contentions.

14. Learned Counsel appearing for the Respondent No.3, while



reiterating the contents of the counter-affidavit filed by it, further contended that the petitioner, having been appointed in a non-sanctioned post, continued as such from the year 1992 till the year 2006 without raising any objection or making any claim, but surprisingly started claiming payment of salary on par with the regular Teachers who were admitted to grant-in-aid from the year 2006. Such a claim could not be met by the Respondent No.3/ School because of its limited financial resources and further brought to the notice of this court that during the pendency of this writ petition, the petitioner has already retired from service on attaining the age of superannuation on 27.03.2013 and all her terminal benefits were also settled. Thus, he contended that the petitioner is fully aware that she was appointed in an unaided post and continued as such and never made any claim for admission of her post into grant-in-aid, and that the Respondent No.3/ School is also having been aware of Section 14-A of the Act, 1973, did not make any claim for admission of the post in question to grant-in-aid.

15. In reply, the learned Senior Counsel appearing for the petitioner contended that the restriction imposed under Section 14-A of the Act, 1973 has no application to the case on hand and placed reliance on a decision of a



learned Division Bench of this court in the case of “**G.Sahadevan -vs- Government of Tamil Nadu and others**” reported in (2008) 4 MLJ 289.

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16. This court has carefully considered the submissions made on either side and also perused the entire material on record.

17. Admittedly, the post in which the petitioner was appointed and continued till the year 2013 is neither an aided post nor a sanctioned post sanctioned by the official respondents.

18. Section 14-A of the Act, 1973 reads as under:-

“Section 14-A: Grant not payable to new private schools and new class and course of instruction.

Notwithstanding anything contained in this Act or in any other law for the time being in force in any judgment, decree or order of any Court or other authority, no grant shall be paid to:

(a) any private school established and any class or course of instruction opened in such private school, on or after the date of commencement of the academic year 1991-1992;

(b) any private school in existence on the date of commencement of the academic year 1991-1992 to which no grant has been paid by



the Government immediately before the date of such commencement;

(c) any class or course of instruction in a private school in existence on the date of commencement of the academic year 1991-1992 to which no grant has been paid by the Government immediately before the date of such commencement; and

(d) any class or course of instruction opened on or after the date of commencement of the academic year 1991-1992 in a private school in existence on the date of such commencement.”

The validity of the above provision of law has been put to challenge before the learned Division Bench of this court and the same was upheld by this court and the same is also stated to be confirmed by the Hon’ble Apex Court.

19. In terms of the above provision, especially Clause (c), any class or course of instruction in a private school in existence on the date of commencement of academic year 1991-1992, to which no grant has been paid by the Government immediately before the date of such commencement, no grant shall be paid by the Government. The course of instruction in question viz., 'Computer Science Education' in the Respondent No.3/ School, was not paid any grant by the Government as on the date of commencement of Section 14-A or as on the date of commencement of the academic year 1991-1992.



Therefore, the embargo placed in terms of Section 14-A would directly apply to the case on hand. If the said provision is applied, the entire claim made by the petitioner is bound to fail.

20. Then, coming to the reliance placed in *Sahadevan's case* is concerned, the learned Division Bench, having taken note of the decision in the case of “*Maria Grace Rural Middle School -vs- The Government of Tamil Nadu*” reported in (2006) 5 CTC 193, observed as under at Paragraph No.11:-

“With this background, let us consider the points urged by the Educational Institutions and the defence taken by the State. Mr. Isaac Mohanlal, learned counsel appearing for some of educational institutions, submitted that the impugned provision, viz., Section 14-A of the Act violates fundamental rights enshrined under Part III of the Constitution of India, particularly Articles 21 and 21-A. Article 21-A of the Constitution mandates that the State shall provide free and compulsory education to all children of the age of six to fourteen years. He highlighted that the right to pre- education of children below 14 years of age flows from Articles 21 and 21-A of the Constitution. He also emphasised that a child has the fundamental right of free education upto the age of 14 years. In Mohini Jain (Miss) v. State of Karnataka and others, 1992 (3) SCC 666, the Hon'ble Supreme Court has emphasised the protection of life and personal liberty as well as right to education as guaranteed in Articles 21 and 21-A of the Constitution of India as under:

“12. “Right to life” is the compendious expression for all those rights which the Courts



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must enforce because they are basic to the dignified enjoyment of life. It extends to the full range of conduct which the individual is free to pursue. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to make endeavour to provide educational facilities at all levels to its citizens.

13. The fundamental rights guaranteed under Part III of the Constitution of India including the right to freedom of speech and expression and other rights under Article 19 cannot be appreciated and fully enjoyed unless a citizen is educated and is conscious of his individualistic dignity.

14. The “right to education”, therefore, is concomitant to the fundamental rights enshrined under Part III of the Constitution. The State is under a constitutional mandate to provide educational institutions at all levels for the benefit of the citizens. The educational institutions must function to the best advantage of the citizens. Opportunity to acquire education cannot be confined to the richer section of the society. Increasing demand for medical education has led to the opening of large number of medical colleges by private persons, groups and trusts with the permission and recognition of State Governments...”

21. I have carefully gone through the above paragraph and, with due respect to the learned Division Bench, without any hesitation, this court is of



the view that there was no ratio laid down by the learned Division Bench in ***Sahadevan's case***. On the other hand, in ***Sahadevan's case***, the learned Division Bench only opined that those schools which were entitled to receive aid and were illegally denied aid by the Government would also fall within the category of schools which were established before the date of commencement of Section 14-A and were in receipt of the aid. That is not the ratio laid down by the learned Division Bench and it only a mere opinion expressed. The opinion expressed or a passing observation made in any decision will not have the effect of *ratio decidendi*. Further, it is also necessary to notice that, as a matter of fact, the learned Division Bench in the case of ***Maria Grace Rural Middle School's case*** only upheld the provision made under Section 14-A of the Act, 1973.

22. In the light of the above, this court is unable to agree with the contention of the learned Senior Counsel appearing for the petitioner to say that the decision in ***Maria Grace Rural Middle School's case*** has no application to the case on hand. Even assuming that the decision in ***Sahadevan's case*** would apply to the case on hand, there is nothing on record



to show that the Respondent No.3/ School has made any claim for the aid, but the same was illegally denied by the Government at any point of time. As a matter of fact, the Respondent No.3/ School has never made any claim for admission of the Computer Science course or the post of 'Computer Science Teacher' to grant-in-aid.

23. Then, coming to the contentions of the learned Senior Counsel for the petitioner by placing reliance on G.O (Ms) No.35, dated 09.02.2007 is concerned, firstly there was no pleading by placing reliance on G.O (Ms) No.35, dated 09.02.2007. No doubt, 201 Vocational Teachers posts were sanctioned by virtue of the said Government Order and various other teachers who were similarly situated like the beneficiaries under G.O (Ms) No.35, dated 09.02.2007 have approached this court and obtained favourable orders for extending the similar benefit to them on par with the beneficiaries under G.O (Ms) No.35, dated 09.02.2007. From the perusal of G.O (Ms) No.35, dated 09.02.2007, it is not clear who are all the beneficiaries of the said Government Order nor the factual matrix of those beneficiaries are before this court. Whether the beneficiaries under G.O (Ms) No.35, dated 09.02.2007 are similarly situated like the petitioner herein or not is also not clear. The said



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Government Order was issued as early as in the year 2007 and whereas, the petitioner approached this court by filing the present writ petition only in the year 2010, without basing her claim on the said Government Order. Admittedly, as on date, neither the petitioner nor the Respondent No.3/ School has made any claim before the official respondents for extending or claiming the identical relief, as was granted under G.O (Ms) No.35, dated 09.02.2007. In the light of the above, it is not proper for this court, especially in the absence of any claim before the respondents to consider the claim of the petitioner for extending the identical benefit that was extended to various others under G.O (Ms) No.35, dated 09.02.2007.

24. Then, the reliance placed by the learned Senior Counsel for the petitioner in the case of ***“The Correspondent, M.M Hr.Sec School and others -vs- K.Mathukumar and others”*** reported in (2007) 1 CTC 649 is concerned, this court is of the considered view that the said decision was rendered without taking note of Section 14-A of the Act, 1973 and in case, if any mandamus is issued to the State Government to sanction the post and to admit the same to grant-in-aid, the same would amount to directing the State to violate a statutory provision. Therefore, in the considered view of this



court, the said decision is of no help to advance the case of the petitioner.

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25. In the light of the above, this court does not find any merit in the contentions raised on behalf of the petitioner and accordingly, the writ petition is dismissed. However, it is made clear that, in case, if the petitioner is of the view that she is entitled for grant of relief in terms of G.O (Ms) No.35, dated 09.02.2007, but she was illegally not extended any such benefit, it is for the petitioner or for the Respondent No.3 to make appropriate claim in that regard and in case, if any such claim is made, the same shall be considered by the appropriate authorities without reference to any of the observations made herein above. No costs. Connected miscellaneous petitions, if any, shall stand closed.

10.10.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

MUMMINENI SUDHEER KUMAR, J.

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To

1. The Director of School Education,
DPI Campus, College Road, Chennai – 600 006.
2. The Chief Educational Officer,
1 Jeenis Road, Panagal Building, Saidapet, Chennai – 600 015.
3. The Principal/ Secretary, St. Ursula Anglo Indian Hr.Sec School,
Presentation Convent, Church Park, Chennai – 600 006.
4. The Inspector of Anglo Indian Schools, Chennai – 600 006.

Pre-Delivery Order made in
W.P.No.15201 of 2010

10.10.2025