



W.P.No.17783 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.17783 of 2018 and
W.M.P.Nos.21058, 21059 & 35523 of 2018

The Manager,
RC Schools,
The Salem Diocese Society,
Mary Palace, No.63, Thammannan Road,
Salem 636 009.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St.George, Chennai 600 009.

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Salem District,
Salem - 636 001.

4.The District Educational Officer,
Salem - 636 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records



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relating to the impugned orders of the third respondent Chief Educational Officer in Na.Ka.No.12466/B2/2015 dated 30.09.2015 (as signed), Na.Ka.No.10274/B2/2016 dated 19.09.2016 and Na.Ka.No.17084/B2/2017 dated 11.10.2017 and quash the same and further direct the third respondent Chief Educational Officer to approve forthwith the appointment of the third physical education teacher Mr.S.Sarath Babu in petitioner's St. Paul's Higher Secondary School, Salem -7, with effect from the date of his appointment viz., 03.06.2015 and release salary and other benefits with effect from the date of his appointment.

For Petitioner : Mr.Godson Swaminathan for
M/s.Issac Chambers
For Respondents : Mrs.P.Rajarajeswari, GA

ORDER

This Writ Petition has been filed to call for the records relating to the impugned orders of the third respondent Chief Educational Officer in Na.Ka.No.12466/B2/2015 dated 30.09.2015 (as signed), Na.Ka.No.10274/B2/2016 dated 19.09.2016 and Na.Ka.No.17084/B2/2017 dated 11.10.2017 and quash the same and further direct the third respondent Chief Educational Officer to approve forthwith the appointment of the third physical education teacher Mr.S.Sarath Babu in petitioner's St. Paul's Higher Secondary School,



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Salem -7, with effect from the date of his appointment viz., 03.06.2015 and release salary and other benefits with effect from the date of his appointment.

2. Heard Mr.Godson Swaminathan, learned counsel for the petitioner, Mrs.P.Rajarajeswari, learned Government Advocate for the respondents and perused the materials available on record.

3. The petitioner School is administered by the Salem Diocese Society and it is an aided minority educational institution. The School has been established in the year 1939 and it has been upgraded as High School in the year 1965 and thereafter, Higher Secondary School in the year 1978. The strength of students in the High School (6th to 10th) and Higher Secondary School (11th & 12th) is totally 2266. The School is entitled to have 6 posts of Physical Education Teacher as per G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997. But the respondent Department had re-fixed the staff strength by reducing 6 physical education teacher to 2. Even according to the Government Order in G.O.Ms.No.525 dated 29.12.1997 for schools which have more



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than 250 students in High School, for every additional strength of 300, one post of physical education teacher shall be sanctioned subject to the maximum of 3. The petitioner School has already got two physical education teachers. The strength of high school students are 1718. The above facts were not denied by the respondents.

4. The learned counsel for the petitioner submitted that even for those schools which exceed the strength of 250, for every additional strength of 300, they are entitled to have 3 physical education teachers and the petitioner school despite having 1718 students at the high school level, the third respondent has denied approval to the third physical education teacher post.

5. The Government Order has been given with different interpretation by the learned Government Advocate for the respondents stating that the maximum strength of 3 cannot be exceeded and the petitioner School has got already 3 postings and hence, the Government has rejected to grant approval. It is submitted that out of the four teachers, 3 physical education teachers are in pursuant to the above Government



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Order and 1 post have been upgraded as physical education director and hence, the petitioner's entitlement for 3 posts have already been exhausted.

6. It is learnt that the petitioner School has already got physical education director even before coming into effect of the Government Order in G.O.Ms.No.525, dated 29.12.1997. In fact, the petitioner School has got 6 posts of physical education teachers along with 1 physical education director. The above Government Order can be understood in such a manner that the upgradation of physical education director is to be done only to those Schools which do not have physical education director. In such Schools, one of the existing physical education teacher can be upgraded as physical education director. Even if the existing teacher is upgraded as physical education director, that cannot be presumed to be equivalent to physical education teachers' strength which has been prescribed in accordance with the ratio of the strength of the students.

7. In the instant case, the petitioner School has got 1718 students and which has already got physical education teachers and the said post is a sanctioned post as it appears from the staff fixation list. The



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Government Order only states that in the high schools having more than 250 students, 1 physical education teacher will be allowed for every additional strength of 300, subject to the maximum of 3. The petitioner School has got the strength of students who would require 6 physical education teachers, if the formula of every one teacher for additional strength of 300 is applied.

8. It is submitted by the learned Government Advocate for the respondents that the maximum strength cannot exceed 3 whatever may be students strength exceeding 250.

9. In this regard, it is appropriate to refer the judgment of the Division Bench of this Court held in ***W.A.No.226 of 2009 and W.P.No.25348 of 2008 dated 04.12.2009 (The Director of School Education and Others Vs. K.Uma)*** wherein, this Court has held that the Government Order in G.O.Ms.No.525 needs to be given with the liberal interpretation. The order further states that the physical education teacher post is separate than that of physical education director. In this regard, the appropriate part of the above judgment is extracted hereunder:



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15. *In the Full Bench judgement, it has been observed that if the teacher's strength is required to be increased keeping in view of the teacher-student ratio, the same has to be allowed. In view of that also considering the strength of the students the authorities can increase the Physical Education Teacher's posts. However it cannot reduce the strength of the Physical Education Teachers student strength requires more. In view of that also, the impugned order is liable to be set aside.*

16. *The aforesaid government order is not prohibitive in nature and in fact, if necessity arises, more teachers can be appointed. The criteria applied in G.O.Ms.No.525, School Education dated 29.12.1997, is only the strength of the students and according to which the teachers have to be appointed. Admittedly as stated above the strength of students is 3948, which requires more number of Physical Education Teachers. G.O.Ms.No.525 School Education dated 29.12.1997 speaks about the maximum of three Physical Education Teachers for High School and separate Physical Education director for Higher Secondary School which got strength over 400. In view of that also the school is entitled to have four teachers. Hence the petitioner's position need not be disturbed.*



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17. *Apart from that contrary to G.O.Ms.No.10 P & A (Per-s), Department dated 7.1.1994, in the middle of the academic year, transfer of teachers is prohibited after commencement of academic year. In view of that also the impugned order is liable to be quashed. Accordingly the writ petition succeeds.*

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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*



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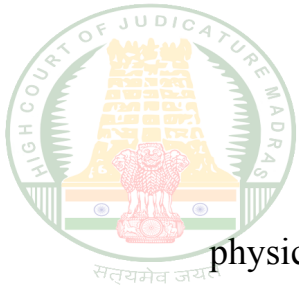


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physical education teachers in the schools as per the strength of students, considering the observations made by this court expeditiously.

10. The same logic is applicable to the case of the petitioner School also which has more than 2000 students studying in both High Schools and Higher Secondary Schools. As the High School strength itself has crossed 1700, it is obligatory on the part of the respondents to sanction the required physical education teachers post and grant approval to the appointment already made. As the respondents has conveniently misread the Government Order without understanding the spirit of it and unmindful of the excess strength of students who require more physical education teachers to impart physical education training to them, I feel the impugned orders are liable to be set aside.

11. In the result, this Writ Petition is allowed and the impugned orders of the third respondent made in Na.Ka.No.12466/B2/2015 dated 30.09.2015, Na.Ka.No.10274/B2/2016 dated 19.09.2016 and Na.Ka.No.17084/B2/2017 dated 11.10.2017 are set aside and the third respondent is directed to approve forthwith the appointment of the third

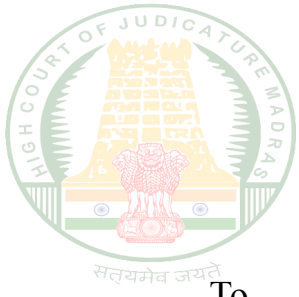


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physical education teacher Mr.S.Sarath Babu in the petitioner School and pass appropriate orders in this regard within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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To
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Department of School Education,
Fort St.George, Chennai 600 009.
- 2.The Director of School Education,
College Road, Chennai - 600 006.
- 3.The Chief Educational Officer,
Salem District,
Salem - 636 001.
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R.N.MANJULA,J.

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