

W.A.(MD)No.1017 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.04.2025

PRONOUNED ON : 29.04.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.1017 of 2025 and
C.M.P.(MD)No.6423 of 2025**

- 1.The Director of School Education,
Chennai.
- 2.The Joint Director of School Education (Secondary),
Chennai-6.
- 3.The Chief Educational Officer,
Chief Educational Office,
Tenkasi Educational District,
Tenkasi District.
- 4.The District Educational Officer,
District Educational Office,
Sankarankovil,
Tenkasi District.

... Appellants

Vs.

Suyambulingam Higher Secondary School,
Represented through its Secretary,
S.J.Gurusamy Pandian,
T.N.Pudhukudi, Puliyangudi,
Kadayanallur Taluk,
Tirunelveli District.

... Respondent



W.A.(MD)No.1017 of 2025

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.15285 of 2020, dated 30.11.2023.

For Appellants :Mr.J.Ashok
Additional Government Pleader
For Respondent :Mr.D.Nallathambi

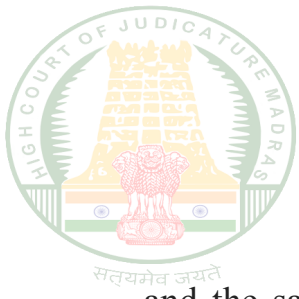
JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is filed by the respondents in the writ petition against the order dated 30.11.2023 passed in W.P.(MD)No.15285 of 2020.

2. The writ petition was filed for issuance of a Writ of Certiorarified Mandamus to quash the staff fixation order dated 14.08.2020 as far as removing the Vocational Instructor post and to direct the respondents to include the sanctioned post of Vocational Instructor to the school and grant prior permission to fill up the post of Vocational Instructor to the petitioner's school.

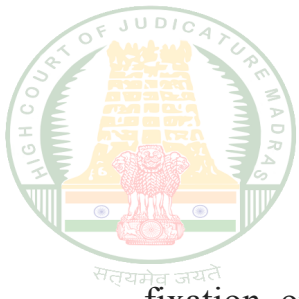
3. The brief facts are that the Suyambulingam Higher Secondary School was started as Elementary School in the year 1950 by its founder J.Jambulingam



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and the same was upgraded as Higher Secondary School in the year 1991. The school was sanctioned one vocational subject post, regularised on the same day and one T. Nallathal was appointed as sewing teacher in that post and her appointment was regularized in time scale with effect from 01.05.1990 vide 3rd respondent proceedings dated 17.05.1990. In the academic year 2013-2014, the aforesaid T.Nallathal reached superannuation on 31.05.2014 and became vacant. However, the school continued the vocational group since the students are studying. Infact 348 students were studying in the academic year 2019-2020 and 334 students were studying in the academic year 2020-2021 and having vocational subject and totally 28 periods are allotted for the vocational subject. Unfortunately, no sanctioned teacher is working in the post of Vocational Instructor, hence the management was forced to appoint a teacher as management staff in the interest of the students and the salary being paid by the management. The management made request for period permission to fill up the same as per Rule 15(4) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, since the serving teacher T.Nallathal reached superannuation on 31.05.2014 i.e., in the academic year 2013-2014 and the 3rd respondent fixed one post of Vocational Instructor for the academic year 2014-2015. The said post was continuously fixed in the subsequent academic years also. Based on the said staff

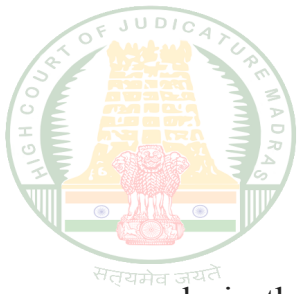


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fixation order, the school sought prior permission to fill the post. In spite of several requests, without granting permission the request was kept pending by the respondents. Taking advantage of the intervening COVID-19 pandemic situation, the 3rd respondent failed to fix the Vocational Instructor post in the staff fixation report, dated 14.08.2020, for the academic year 2019-2020. Even now, as per the student strength, one post is mandatory, hence there is no question of surplus in the school. Without considering the pending proposal for the last 6 years for prior permission to fill up the Vocational Instructor post by the 3rd respondent, fixing no post in the staff fixation report is untenable and removing the said post is arbitrary. Hence, the writ petition was filed.

4. The 3rd respondent has filed a counter affidavit stating that Suyambulingam Higher Secondary School, Puliyangudi, is an aided non-minority school with standards 6 to 12. The standards 6 to 10 are aided by the Government while the standards 11 and 12 are being run by the Management on self-financing basis. There is no post of Vocational Instructor sanctioned to the petitioner school. The school has got only the post of Craft Teacher (Sewing), and the said post became vacant due to retirement of the incumbent T.Nallathal on 31.05.2014. Further, as per the revised syllabus, the Craft subject is taught for standards 6 to 8

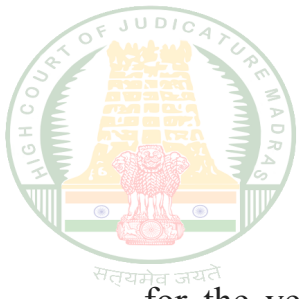


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only in the schools. As per G.O.Ms.No.132 School Education (M1) Department, dated 27.04.1998 and G.O.Ms.No.104 School Education (D1) Department, dated 12.07.2002, to fill up the post of Craft Teacher (Sewing) in aided schools there must be 250 “girl students” in standards 6 to 8 of the school. Whereas the girls students’ strength in the petitioner School in standards 6 to 8 is as follows:

As on	Standards			Total
	6	7	8	
01.08.2019	20	20	20	66

Since the girl students’ strength in standards 6 to 8 of the school is below 250, the school is not entitled to the post of Craft Teacher in Sewing. So, that post of Craft Teacher was not included in the staff fixation statement of the school for the academic year 2019-2020 by the Chief Educational Officer, Tenkasi. The girl students’ strength of standards 6 to 8 of the school was only 66 for which no post of Craft Teacher in Sewing is admissible. Since the petitioner school has no sufficient girl students’ strength in standards 6 to 8 as stipulated in G.O.Ms.No. 132, School Education (M1) Department, dated 27.04.1988 and G.O.Ms.No.104, School Education (D1) Department, dated 12.07.2002, the school is not entitled to the post of Craft Teacher (Sewing). Hence, the said post of Craft Teacher (Sewing) was struck off in the staff fixation order dated 14.08.2020 of the school



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for the year 2019-2020. Hence, the order of staff fixation issued by the CEO, Tenkasi, is just and reasonable and it is not arbitrary as alleged by the petitioner, hence the respondents prayed to dismiss the writ petition.

5. After hearing the rival submissions, the Writ Court has allowed the writ petition and has directed the Chief Educational Officer to accord sanction to the school to fill up the post of Craft Teacher in Sewing for the academic year commencing from 01.06.2024. Aggrieved over the same, the present writ appeal is preferred by the State.

6. The school is having standards 6 to 12 in the school, but the 11 and 12 are functioning as self-financing section, hence the students' strength of the 11 and 12 cannot be taken into account for sanctioning any post.

7. The claim of the school that the post is “vocational instructor” itself is wrong, since the said post was granted to the school for the standards 6 to 8 only as per the sanction order dated 17.05.1990, then the said post is only “pre-vocational instructor” which is permitted to 6 to 8 standards only.



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8. Further, the High School sections of the school means covering from standards 6 to 10. There is no vocational course at all for the standards 9 and 10. Therefore, the claim of the school that the Craft Teacher (Sewing) would take class for the standards 9 and 10 is absolute false. Hence, the students' strength studying in the standards 9 and 10 cannot be taken into account for sanctioning Craft Teacher (sewing) post.

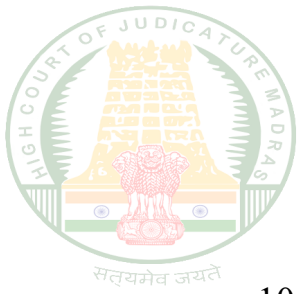
9. The school has furnished the tabulation of periods dated 02.06.2014 indicating the Craft Teacher (Sewing) would take class which is as follows:

Days	Periods							
-	1	2	3	4	5	6	7	8
Mon	VI-A Sewing	VI-B sewing	-	-	X sewing	VI-A VE	VI-B VE	-
Tue	VII sewing	-	X LOE	-	IX sewing	-	VII VE	-
Wed	VIII sewing	-	IX LOE	-	VIII sewing	-	VIII VE	-
Thurs	IX sewing	VI-A LOE	VIII LOE	-	VII sewing	-	IX VE	-
Fri	X sewing	VI-A LOE	VII LOE	-	VI-A sewing	VI-B sewing	X VE	-

Sewing – 12 class.

LOE (Life Oriented Education) – 6

VE (Value Education) – 6



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10. From the above it is evident that the Craft Teacher (sewing) is having **“12 periods of sewing”** alone. As held supra when there is no syllabus of **“crafting / sewing”** in standards 9 and 10, it is not known how the school is taking crafting / sewing class for the 9 and 10 standards, therefore this fact is totally incorrect. It is important to note that the “12 periods class” is inclusive of “4 sewing periods” for 9 and 10 standards, hence the said four periods ought to be subtracted. Therefore, the Craft Teacher (sewing) is only having 8 periods of sewing alone. Generally, any teacher is bound to take 28 periods in a week, if it is less than 28 periods the teacher would be having no work for certain periods. In the present case the Craft Teacher (sewing) is only having eight periods, which is far below the prescribed “28 periods for a week”. It is pertinent to note that the incumbent herself had not worked 28 periods for a week, then there is no question of granting the said post to recruit new person.

11. The next claim of the school that the Craft Teacher (sewing) is taking six periods of LOE i.e. Life Oriented Education and six periods of VE i.e. Value Education is totally unbelievable. In the said six periods, the two periods of LOE and two periods of VE to standards 9 and 10, again the said standards 9 and 10 are not having the said syllabus, hence the said two + two ought to be subtracted.



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Which means the four LOE + four VE to standards 6 to 8. Interestingly there is no such syllabus for standards 6 to 8. In such circumstances, there is no question of taking Life Oriented Education and Value Education. From this itself it is evident that the school is fully aware that the Craft Teacher (sewing) is not having adequate periods, especially 28 periods per week, that is why the school claims the Craft Teacher (sewing) is taking six periods of LOE i.e. Life Oriented Education and six periods of VE i.e. Value Education. Further the said teacher is not qualified to take such classes at all, but was qualified to take only sewing alone. Hence without any such subjects, without any such qualification the earlier incumbent was taking LOE and VE. Further when the earlier incumbent was not having adequate periods at all, then there is no question of granting the said post to the school. Therefore, the school is not entitled to the Craft Teacher (sewing) based on the fact that the school is not having adequate periods to the Craft Teacher (sewing). The Writ Court had not taken the fact that the Craft Teacher (sewing) is not having adequate periods, therefore the order passed by the Writ Court is liable to be set aside.

12. The next claim of the school is that the school is having 348 students for the academic year 2019-2020 and 334 students for the academic year

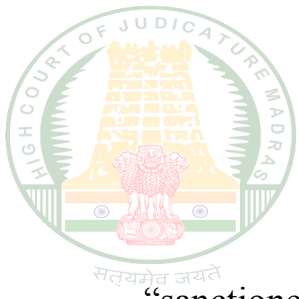


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2020-2021. On perusal of the students' strength furnished by the school it is seen the school has included students studying in the standards 9 and 10, which is erroneous. Further the school has included the English Medium section also, the grant-in-aid is only for Tamil Medium alone, hence the same cannot be included. If the students' strength for standards 6 to 8 are taken into account, then the school is having 174 students which is inclusive of girls (66) and boys (108). For granting the post of Craft Teacher (sewing) then the school ought to have 250 girl students, but the school is having only 66 girl students. Therefore, originally even though the school was granted the post of Craft Teacher (sewing), based on the students' strength the school is not entitled to the said post.

13. Even though the Writ Court had taken this aspect into account, but held originally the post is sanctioned, therefore the same cannot be taken away. The same may not be correct. The sanctioned post would vary based on the students' strength. The "sanctioned post" is claimed frequently by the individuals and the schools without understanding that there cannot be a "permanent sanctioned post", since the same varies based on students' strength for each academic year. Infact the staff fixation order is issued every academic year based on the students' strength admitted during that academic year, therefore



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“sanctioned post” will come into play only after issuance of staff fixation order for every academic year. If the students’ strength is reduced then the school shall not be entitled to the said post. If any person is working in the said post without students’ strength, then the post would be declared as “surplus along with person” and the person ought to be transferred or post on deputation to needy school. Likewise, if no person working in the said surplus post then the same would be declared as “surplus without person” and the said post would be reverted to “Director’s Common Pool”. If in the next academic year the school had increased the students strength and as per the strength if the school is entitled to the said post which was reverted to the “Director’s Common Pool”, then the school would be permitted to submit a request to revert the said post and the same ought to be considered in favour of the school. From the aforesaid procedure it is evident that there cannot be any “permanent sanctioned post”. Consequently, any claim that the appointment is made is “sanctioned post”, cannot straight away be accepted. The said claim ought to be scrutinised based on the staff fixation order for the disputed academic year. Therefore, the claim of the school that the Craft Teacher (Sewing) is sanctioned post is a misnomer and the same cannot be accepted.

14. The appellants relied on the judgment rendered in the case of *the*



District Educational Officer and Another Vs. P.Pon Selvi and Another, in W.A.

(MD)No.1063 of 2020, dated 27.11.2024, wherein it is held as under:

“6.We are not persuaded to agree with the said contention. Our attention was drawn to G.O.(Ms)No.132 School Education Department dated 27.04.1998. It is this government order that is holding the field. It reads as follows:

....

7.A bare reading of the aforesaid government order would indicate that a given number of posts were sanctioned by the Government for the purpose of catering to those schools where strength of middle school was 250 and more. In the case on hand, during the relevant time, the total strength of the classes from 6 to 8 (both boys and girls) was only 86. The schedule to the Right of Children to Free and Compulsory Education Act, 2009 also states where admission of children in classes 6 to 8 is above 100, there has to be a part time instructor for work education. The students strength maintained in the second respondent school during the relevant time was below the threshold mentioned in the government order as well as the schedule to the Act.

8.We have departed from the view taken by the other Hon'ble Division Benches only for one reason. The learned Government Advocate for the appellants pointed out that the number of classes allotted for such teachers would be three per week per section. In this case, the appointed teacher will have to cater to only three classes. Each class has one section each. The sixth standard had the strength of 28 students. The seventh standard had the strength of 31 students. The



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eighth standard had the strength of 26 students. Which means each class had one section. In other words, the appointed teacher would have only nine classes maximum per week. We are of the view that the issue should be approached not only from the perspective of students strength but also from the perspective of the number of classes which an appointed teacher will have to handle. This aspect was not brought to the notice of the earlier Hon'ble Division Benches.

9.It is the State which is the pay master. The salary of the appointed teacher will have to come from the State exchequer. When a teacher will be having only maximum nine classes per week, it would not be reasonable to direct approval of such an appointment. It is for this reason, the order impugned in this writ appeal is not sustainable. It is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed. "

This Court totally agrees with the aforesaid judgment and the reason stated in the judgment for deviating from the earlier judgments. This Court unequivocally holding that the post can be sanctioned only if the school is having prescribed students' strength. As well as if the teacher is having 28 periods per week. If not, the school is not entitled to the said post.

15. In the case of the ***State of Bihar v. Sachindra Narayan***, reported in ***(2019) 3 SCC 803***, the Hon'ble Supreme Court took note of the discretionary



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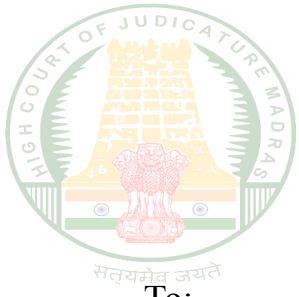
nature of a grant and observed that “the release of grant is in discretion of the grantor and cannot be forced by the grantee.” Further in the case of State of Odisha and another vs. Anup Kumar Senapati and another [Civil Appeal No.7295 of 2019], in paragraph No.8, the Hon'ble Supreme Court had held that that grant-in-aid cannot be claimed as a matter of right. Therefore, this Court is of the considered opinion that the schools cannot claim grant-in-aid as a matter of right and the same is based on conditions. If the conditions are not fulfilled, then the government cannot be compelled to grant the post, to grant approval of appointment, to disburse grant-in-aid.

16. For the reasons stated supra, the writ appeal is allowed. The order passed in writ petition is set aside. The staff fixation order, dated 14.08.2020, as far as removing the Vocational Instructor post is as per law and the same is perfectly valid. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
29.04.2025

Index : Yes / No

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