



W.A.(MD) No.538 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.(MD) No.538 of 2020
and
C.M.P.(MD) No.3739 of 2020**

- 1.The Director of Elementary Education
College Road, Chennai-600 006
- 2.The District Elementary Educational Officer
Tuticorin, Tuticorin District
- 3.The Assistant Elementary Educational Officer
Sathankulam Union
Tuticorin District

... Appellants

-vs-

- 1.A.Gnana Mallika
- 2.The Correspondent
St.Joseph's R.C.Middle School
Kadukulam-628 656
Tuticorin District

... Respondents



W.A.(MD) No.538 of 2020

WEB COPY

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 09.12.2019, passed in W.P.(MD) No.6847 of 2015, on the file of this Court.

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondents : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chamber for R1
Father.Savarimuthu
for M/s.Father Xavier Associates for R2

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

Under assail is the writ order, dated 09.12.2019, passed in W.P. (MD) No.6847 of 2015.

2. The Education Department is the appellant in the present writ appeal.

3. The first respondent – Gnana Mallika instituted the writ proceedings challenging the proceedings of the second appellant herein, dated 25.10.2014 returning the proposal submitted by the Management of the



W.A.(MD) No.538 of 2020

WEB COPY

second respondent – School seeking approval for her appointment in the post of Sewing Mistress (Pre-Vocational Instructor) citing students' strength and consequently, seeking a direction to the second appellant herein to approve her appointment in the said post with effect from the date of her appointment on 24.06.2013 with all attendant benefits including arrears of salary and allowance.

4. Admittedly, the first respondent herein was appointed as Sewing Mistress (Pre-Vocational Instructor) by the Management of the second respondent – School. The authorities concerned have considered the proposal submitted by the Management of the second respondent – School for approval of the appointment of the first respondent in the said post and rejected the same *vide* proceedings dated 25.10.2014 mainly on the ground that 12 girl students alone were studying in the second respondent – School from sixth standard to eighth standard during the relevant point of time. Aggrieved over the same, the first respondent instituted the writ proceedings and the Writ Court, by the impugned order set aside the proceedings of the second appellant dated 25.10.2014 and directed the appellants herein to approve the appointment of the first respondent as Sewing Mistress (Pre-Vocational



W.A.(MD) No.538 of 2020

WEB COPY

Instructor) with effect from the date of her appointment i.e., from 24.06.2013 with all attendant benefits including the arrears of salary and allowance. Challenging the same, the Education Department is before this Court by way of this writ appeal.

5. The issues to be considered in this case are as follows:

- (i) Whether non-compliance of the mandatory requirements contemplated under the Government Scheme can be a ground to approve the appointments resulting in financial implications to the State Exchequer.
- (ii) Whether the High Court, in exercise of the power of judicial review, can grant the relief of approval of appointment in violation of the Government norms fixed for grant of such approvals of appointments, which may result in causing prejudice to the financial interest of the State.
- (iii) Whether the Management can appoint Pre-Vocational Instructors, without having



W.A.(MD) No.538 of 2020

WEB COPY

prescribed students strength as per the Government Policy. In the event of any such appointments contrary to the Government Policy, such appointments will provide a right to secure approval from the Education Department.

6. Let us now consider the Government Scheme for appointment of Pre-Vocational Instructor (Sewing Mistress) in the Middle Schools.

7. The first Government Order, in this regard, is G.O.(Ms) No.132, School Education (MI) Department, dated 27.04.1998. The said Government Order reveals that appointment of Pre-Vocational Instructor was banned by the Government on account of certain practical situations prevailed during the relevant point of time. Representations were received from various quarters stating that the post of Pre-Vocational Instructor is to be filled up. Taking into consideration such representations, the said Government Order came to be issued by granting sanction to fill up 168 vacant posts of Pre-Vocational Instructors and as per the said Government Order, the girl students strength



W.A.(MD) No.538 of 2020

WEB COPY

must be above 250 in a school. In other words, for 250 girl students in a school from sixth standard to eighth standard, one post of Pre-Vocational Instructor can be filled up.

8. Subsequently, the Government issued another Government Order in G.O.(Ms) No.39, School Education (D1) Department, dated 21.03.2003. In the said Government Order, referring to G.O.(Ms) No.132, School Education (M1) Department, dated 27.04.1998, further guidelines were issued to fill up the post of Pre-Vocational Instructor, in the Schools where 250 girl students are studying from sixth standard to eighth standard. However, the norms fixed in G.O.(Ms) No.132, dated 27.04.1998, have not been altered. Thus, the policy remains that 250 girl students must be studying in a particular school from sixth standard to eighth standard for filling up the post of Pre-Vocational Instructor.

9. Admittedly, the Government Order issued in G.O.(Ms) No.132, dated 27.04.1998 and G.O.(Ms) No.39, dated 21.03.2003, remain unchallenged. As far as the norms fixed by the Government for appointment of Pre-Vocational Instructor are concerned, the same cannot be read down by



W.A.(MD) No.538 of 2020

WEB COPY

the Courts nor interpreted so as to dilute or violate the norms fixed by the Government regarding students strength. In the event of reading down such policy decision, it will result in financial loss to the State Exchequer.

10. The very purpose and object of fixing norms is to ensure that the services of the teachers in a particular school are fully utilized and as far as the Pre-Vocational Instructors are concerned, they may take one or two classes in a week for one class. Therefore, by making a proper assessment, the Government has fixed the students strength as 250 girl students from sixth standard to eighth standard for filling up one post of Pre-Vocational Instructor. Fixing norms for the students strength and for appointment of teachers are the prerogative of the Government and such policy decisions are taken based on the reports of the educational authorities / expert reports. Court cannot substitute its views in such matters and fix a new criteria so as to dilute the norms fixed by the Government.

11. In the present case, admittedly, twelve girl students alone were studying in the second respondent – School from sixth standard to eighth standard during the relevant point time. Thus, the educational authorities



W.A.(MD) No.538 of 2020

WEB COPY

rejected the proposal submitted by the Management of the second respondent – School for approval of the appointment of first respondent.

12. Learned counsel appearing for the first respondent has relied on some decisions, which all are factually distinguishable and in one such judgments, the norms fixed by the Government has been read down by the Courts, which, in the opinion of this Court, is unnecessary. Such policy decisions fixing norms for appointment of teachers, since prerogative of the Government, is to be scrupulously followed and the High Court is not expected to reduce the students strength or otherwise.

13. In this context, it is relevant to consider two decisions of the Division Bench of this Court, which are all falling in the same line of the policy decision of the Government in G.O.(Ms) No.132, dated 27.04.1998 and G.O. (Ms) No.39, dated 21.03.2003 and the relevant portion of the Judgment dated 05.06.2025 in W.A.(MD) No.441 of 2019 (***State vs. The Secretary, EVA Vallimuthu High School***) is extracted hereunder:

“11. The issue on hand has been elaborately considered by the Division Bench of this Court by judgment dated 29.04.2025 in W.A.(MD) No.1017 of 2025 (cited supra).



W.A.(MD) No.538 of 2020

WEB COPY

The relevant portions of the said judgment are extracted hereunder:

*“4. ... 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 6 7 8 Total 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*



W.A.(MD) No.538 of 2020

WEB COPY

14.08.2020 of the school 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.

...

...

12. ... 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.

...

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:

....



W.A.(MD) No.538 of 2020

WEB COPY

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



W.A.(MD) No.538 of 2020

WEB COPY

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 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



W.A.(MD) No.538 of 2020

WEB COPY

*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 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."



W.A.(MD) No.538 of 2020

WEB COPY

14. However, the Writ Court has mainly proceeded on the ground that filling up the post of Pre-Vocational Instructor is essential and accordingly, granted the relief of approval of appointment. Further, the Writ Court has stated that fixing of students strength is to be construed as directory and not mandatory. Such a finding is running counter to the established principles of law. Once criterias for appointment of teachers are fixed by the Government, it has to be followed and Courts can neither substitute its views in such matters nor analyse the necessity for fixing students strength, which is based on the reports of the experts. For these reasons, this Court is inclined to interfeer with the writ order.

15. Accordingly, this writ appeal is allowed and the writ order, dated 09.12.2019, passed in W.P.(MD) No.6847 of 2015, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

[A.D.M.C., J.]

25.06.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No



W.A.(MD) No.538 of 2020

WEB COPY

krk

To:

- 1.The Director of Elementary Education,
College Road, Chennai-600 006.
- 2.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
- 3.The Assistant Elementary Educational Officer,
Sathankulam Union,
Tuticorin District.



WEB COPY



W.A.(MD) No.538 of 2020

S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

krk

W.A.(MD) No.538 of 2020
and
C.M.P.(MD) No.3739 of 2020

25.06.2025