

W.A.(MD)No.423 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

<i>Judgment Reserved On</i>	<i>Judgment Pronounced On</i>
04.03.2025	03.06.2025

CORAM:

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

W.A(MD)No.423 of 2025
and
C.M.P.(MD).No.3264 of 2025

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 Joint Director of School Education (Vocational),
College Road,
Chennai – 600 006.

4.The Chief Educational Officer,
Madurai District,
Madurai.

5.The District Educational Officer,
Madurai District,
Madurai.

... Appellants



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-Vs-

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1.N.Prema

2.The Headmaster,
Veliveethiyar Corporation Girls,
Higher Secondary School,
Ponnagaram,
Madurai – 625 016.

3. The Commissioner,
Madurai Corporation,
Madurai.

4.The District Educational Officer,
Madurai Corporation,
Madurai.

... respondents

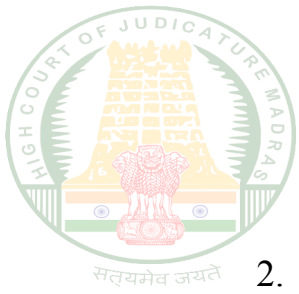
Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.9781 of 2025, dated 25.07.2024.

For Appellants : Mr.J.Ashok
Additional Government Pleader
For R1 : Mr.S.Sivasubramanian

JUDGMENT

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

This Writ Appeal is filed by the respondents in the writ petition challenging the order dated 25.07.2024 passed in W.P.(MD)No.9781 of 2025.



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2. The Writ Petition was filed for Writ of Certiorarified Mandamus to quash the impugned letter dated 16.10.2020 of the 2nd respondent and consequently direct the respondents to regularize the services of the petitioner as Vocational Instructor under the 6th respondent school, in terms of G.O.Ms.No.35, Education Department dated 09.02.2007 granting all attendant benefits, viz., seniority and other monetary benefits.

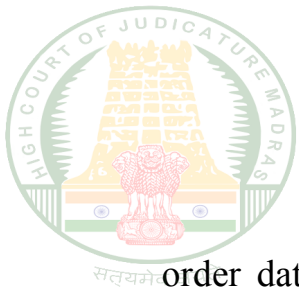
3. The brief facts are that the petitioner was working as Vocational Instructor in the 6th respondent Velliveethiyar Corporation Girls Higher Secondary School. The petitioner is possessing qualification of M.A., B.Ed., possess Training Certification for Typewriting (Higher in both Tamil & English) and certificate course in Computer Application. In the year 1999, the 6th respondent School introduced Vocational Instruction courses with subject viz, Commerce, Accountancy, Office Management and Type Writing and as per G.O.Ms.No.525 dated 29.12.1997 the 6th respondent was authorized and permitted to appoint 2 Vocational Instructors, hence the 6th respondent conducted interview on 09.06.1999, verified educational qualifications, then appointed the petitioner as Vocational Instructor in Office Management and Type Writing on 01.07.1999 and one Mr.P.Ravisangar was also appointed as



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Vocational Instructor in Commerce & Accountancy besides the petitioner. The 1st respondent issued G.O.Ms.No.35 dated 09.02.2007 for regularization of eligible Parent Teachers Association (PTA) staffs, then issued Letter dated 13.03.2009 in Na.Ka.No.101568/V1/E1/2004 calling for the details of the PTA staff eligible for regularisation. The 6th respondent school had sent the details of the petitioner along with one another PTA staff namely Mr.Jeyapal as the eligible candidates for regularization, but the petitioner's name was left out in the list. Hence, the petitioner submitted various representations to the respondents, but no reply was forth coming. Hence, W.P.(MD)No.3608 of 2018 was filed and the same was disposed of directing to consider and pass orders. Again, the petitioner submitted representations on 06.01.2020, 03.02.2020, 19.03.2020 & 22.03.2020. Then the CEO had passed on order dated 31.01.2020 stating the petitioner did not work in a school, hence there is no rule to grant regularisation. The contention of the petitioner is that one Mr.P.Ravisangar, who was appointed along with the petitioner was absorbed. Further across Tamil Nadu, PTA staff from various Corporation Schools were absorbed and regularized under G.O.Ms.No.35 dated 09.02.2007. Hence, Cont.P.(MD)No. 339 of 2021 was filed and the Court closed the contempt granting liberty to challenge the Letter dated 31.01.2020. Then the 2nd respondent had also passed



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order dated 16.10.2020 rejecting the claim of the petitioner. Hence, the writ petition is filed challenging the order dated 16.10.2020.

4. The 4th respondent has filed counter affidavit stating that the Vocational Course Teachers were either appointed by the School Managements or by the “Parent Teacher Association” with the prior approval of the Government prior to 1992. But after 01.04.1992, no private schools both minority and non-minority schools were permitted to open new aided schools, to start any fresh vocational courses from the said date. It was the policy decision of the Government not to disburse grant-in-aid to any private schools, however, they were permitted to establish schools without seeking any aid from the Government. The 6th respondent school is run by the Madurai Municipal Corporation and recognized by the Government of Tamil Nadu. The Parent Teacher Association of the school resolved to start vocational groups in the school by a resolution date 09.06.1999 and accordingly requested the Director of School through the CEO, Madurai to permit the vocational groups. The 6th respondent school was not granted any permission by the government to start the vocational course. The contention of the petitioner that the Parent Teachers Association of the school had appointed the petitioner as part time

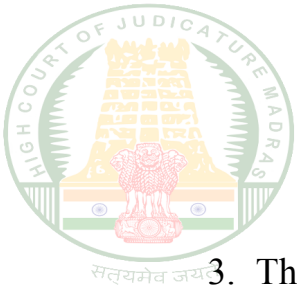


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vocational Instructors but Headmaster of the school has stated that the petitioner although was appointed on 09.06.1999, she could not continue in the post due to her sickness and went on leave from the month of September and rejoined only on 01.06.2000. The Government issued order in G.O.Ms.No.35, School Education (VE) department dated 09.02.2007, stating that the part time vocational instructors appointed by the PT Association getting salary from the P.T.A. funds, are working in the unapproved and unsanctioned posts. They are having qualifications, hence among those who have been appointed before 20.09.1996 and became fully qualified after 20.09.1996 working in various schools were appointed in the existing vacancy with time scale of pay of Rs. 4500-15-6000 by giving relaxation communal reservation and sponsoring from the employment exchange according to seniority. It is submitted that the following particulars of the petitioner were called for vide letter dated 13.03.2009 in Na.Ka.No.101568 /V1/E1/2004 of the Director of School Education:

1. Original order of appointment issued by the P.T.A of the school along with an attested copy.
2. Attendance in original and an attested copy of the petitioner.



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3. The Pay disbursement Register with details of salary received by the petitioner from the date of joining till the date in original with an attested copy.
4. Notes of lessons in original from the date of joining till date along with an attested copy.
5. Mark Register of XI standard from the date of joining till date in original with an attested copy
6. An attested copy of the orders permitting the vocational groups by the Director of school Education/Chief Educational Officers.
7. All the educational Certificates in original and an attested copy (SSLC, HSC, Degree, Diploma and other certificates)

5. The school authorities failed to produce the orders permitting the school to start vocational groups from the academic year 1999-2000. Even though the school submitted proposals to start the vocational groups every year but such permission was not granted by the government, which is evident from the letter of the school headmaster dated 09.01.2005 and 05.11.2008. On 17.06.2005, the Joint Director sought certain particulars such as the number of students in the vocational group from the year 1999 and how the students were admitted to the Higher Secondary Examination without getting permission from the department for the vocational groups. Finally, the school could get permission only with effect from the year 2014-2015 vide G.O.Ms.No.135



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School Education SE2(2) Department dated 20.07.2016 with condition that the financial burden shall be borne by the school, no teacher post or grant-in-aid will be given for the vocational group which shall function as self-finance section, the school shall maintain the students' strength granted in the G.O. When there was no permission to start the vocational groups till 2016, the question of including the name of the petitioner in the list of persons entitled to regularisation does not arise and consequently the name of the petitioner was not included in the list of eligible candidates for regularization as per G.O.Ms.No.35 School Education (VE) dated 09.02.2007. The petitioner has already filed W.P.(MD)No.3608 of 2018 and the Court vide order dated 02.12.2019 directed the respondents to consider and pass order. Since the school was not having any sanctioned post, the petitioner was not granted the benefits of regularisation under G.O.Ms.No.35, accordingly the claim was rejected vide impugned order dated 16.10.2020, hence prayed to dismiss the writ petition.

6. After hearing the rival contentions, the Writ Court quashed the order dated 16.10.2020 and directed the 4th respondent to call for documents from the school, then pass appropriate orders by extending the benefits of G.O.Ms.No.



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35 dated 09.02.2007 and grant time scale of pay from 09.02.2007, i.e., the date of issuance of the G.O., and the consequential service benefits and directed to pass orders within a period of eight weeks. Aggrieved over the same, the present writ appeal is filed by the State.

7.Heard Mr.J.Ashok, Learned Additional Government Pleader appearing for the appellants and Mr.E.Somasundaram, Learned Counsel appearing for the 1st respondent and perused the records.

8.The primary contention of the appellant is that the school was not granted any sanctioned post at all. But the contention of the petitioner is that the PTA of the school appointed her in the vocational instructor post. In order to consider the rival contention, it is necessary to peruse the facts. The petitioner claims she was appointed on 01.07.1999. But it is seen the PTA has passed a resolution dated 09.06.1999 to start vocational groups, then based on the resolution the school had requested the Chief Educational Officer to permit to start the vocational groups. From this it evident that the school was not even granted any permission to start a new vocational group. Therefore, it is evident



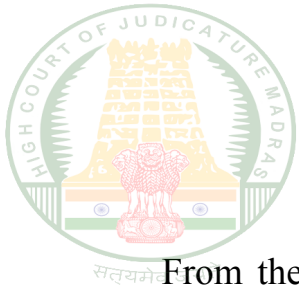
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that there is no sanctioned post at all, then it can be safely concluded that the appointment of the petitioner is in unsanctioned post.

9. The above fact is confirmed in the G.O.Ms.No.135 School Education Department (P.Ka.2(2)) Department dated 20.07.2016. It is through this G.O. the school was granted ratification for the vocational group from the academic year 2014-2015. At the cost of repetition, it is only ratification and not prior approval. This would clearly prove the case of the appellant that there was no sanctioned post of vocational instructor prior to this G.O.Ms.No.35. Further the G.O. records that the school has given an undertaking that they would not claim sanctioning of teacher. It is thereafter the government had granted ratification with the following conditions:

- i. The financial burden to start the vocational course shall be borne by the school itself.
- ii. The school is permitted to function as self-financing, hence the new vocational course is not entitled to any teaching post and not entitled to grant-in-aid
- iii. The school shall maintain the students' strength as given in this G.O.



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From the above G.O.Ms.No.135 it is evident that the school was granted to start the new course only through this G.O., the school was not granted any teaching post, the school was not granted any grant-in-aid for the said post, it is permitted to function as self-financing post. In such circumstances, the petitioner cannot be considered as approved teaching staff, consequently cannot claim for regularisation at all.

10. Further the said G.O.Ms.No.35 is granting regularisation if the persons are fulling the conditions prescribed in the G.O. wherein it states that the persons who were appointed before 20.09.1996 and became fully qualified after 20.09.1996. Even though the said G.O.Ms.No.35 was issued in the year 2007 it only addresses the persons who were appointed before 20.09.1996. In the present case, even according to the petitioner she was appointed in the year 1999, in such circumstances the petitioner is not entitled to the benefits of G.O.Ms.No.35. Further it is noted that the G.O. states that there are 622 such teachers and only 201 vacancy is available, hence from the said 622 such teachers only 201 teachers would be accommodated in the existing vacancy. When the petitioner is not in the said 622 already waiting teachers, then the petitioner cannot be granted the benefits of G.O.Ms.No.35 at all, if granted



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then the other waiting persons would be seriously affected. Hence, on this ground also the petitioner is not entitled at all. If in future the government is taking any policy decision to regularise the appointees from 21.09.1996 i.e. subsequent the cutoff date stated in the G.O.Ms.No.35, then the petitioner may get a chance of regularisation. But not in G.O.Ms.No.35. But it is seen that the school was sanctioned the said post as self-financing, in such circumstances, then the person working the said post can never be regularised at all.

11.The Writ Court has taken the only fact that the petitioner's name was included in the list which was prepared based on G.O.Ms.No.35 dated 09.02.2007, but subsequently dropped, hence the Court has directed to grant the relief of G.O.Ms.No.35. But the Writ Court failed to take into account that there was no sanctioned post. Also failed to take the fact that the school was granted the post through G.O.Ms.No.135 dated 20.07.2016, that too with a condition that no teaching post would be granted and no grant-in-aid would be granted and to function as self-financing post. Therefore, the Court is of the considered opinion that the impugned order is erroneous and the same is liable to be set aside and accordingly set aside. Consequently the letter dated



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16.10.2020 of the appellant is in accordance to law and the writ petitioner is not entitled to any relief.

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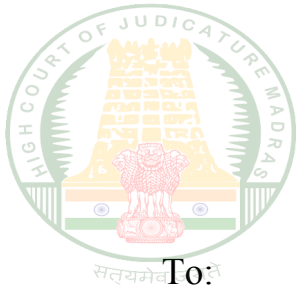
12. For the observations and reasons stated supra, the present Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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

03.06.2025

Index : Yes / No

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To:

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1. The Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.
2. The Director of School Education,
College Road,
Chennai – 600 006.
3. The Joint Director of School Education (Vocational),
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