



W.A(MD)No.570 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2025

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.A(MD)No.570 of 2021

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

2.The District Educational Officer,
Tuticorin,
Tuticorin District.

3.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 009.

... Appellants

Vs.

1.S.Kalista Mary,
Secondary Grade Teacher,
St.Annes High School,
Thattarmadam,
Tuticorin District - 628 653.



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2.The Correspondent,
St.Annes High School,
Thattaramadam,
Tuticorin District - 628 653.

... Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order made in W.P.(MD)No.14085 of 2015 dated 26.11.2020 on the file of this Court.

For Appellants : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.J.Ashok
Additional Government Pleader

For Respondents : Mr.A.Ajith Geethan (R1)
: Mr.S.Savarimuthu (R2)
for Mr.Father Xavier Associates

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

The State has preferred an appeal as against the order passed on 26.11.2020 in W.P(MD)No.14085 of 2015. That Writ Petition had been filed assailing the proceedings of the Department of School Education rejecting the claim of R1/writ petitioner for incentive increments for B.Ed and M.A degrees.



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2.The admitted facts are that R1 had been working as a Secondary Grade Teacher in St.Anne's High School, Thattarmadam, Tuticorin District, which is a recognized aided private school administered by the R.C Diocese of Tuticorin. It is a religious minority educational institution entitled to the benefit of Article 30(1) of the Constitution of India.

3.When recruited, she possessed a Diploma in Teachers Education (D.T.Ed). In the course of her service, she acquired a B.A (Tamil) degree through distance education in October, 1987, a postgraduate degree ie., M.A (Tamil) in April 1995 and Bachelors in Education (B.Ed) degree in May 2012.

4.Thus, a representation came to be made by her on 29.01.2015 seeking sanction of two incentive increments for M.A and B.Ed degrees. The Correspondent of the school accepted her entitlement for the increments and forwarded a proposal to the District Educational Officer, Tuticorin, seeking sanction of two incentive increments. The proposal was returned for certain clarifications and was duly resubmitted with the necessary details.



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5.The order impugned in the Writ Petition was passed on the ground that the acquisition by R1 of the degrees for higher studies was without requisite prior permission from the authorities. Hence, the authorities chose to negate the entirety of the qualifications obtained by R1, simply for the reason that she had not sought prior permission for studying further, despite the school correspondents validating her entitlement. The Writ Petition was allowed on 26.11.2020, and G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989, cited by the authorities, was held inapplicable to the case.

6.According to the Writ Court, Section 18(b) of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 ('Act') and applicable Rules confer powers on the school committee to appoint staff and decide their service benefits. In this context, reference was also made to G.O.Ms.No.101, School Education (Budget-1) dated 18.05.2018. In fine, and relying on various decisions, the Writ Petition came to be allowed, quashing the proceedings and directing the sanction of two sets of incentive increments.



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7.Mr.Ashok, learned Additional Government Pleader would vehemently assail the order of the Writ Court, pointing out that G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989, categorically requires that prior permission be obtained from the competent State authority without which the faculty member cannot engage in further studies. According to him, if the candidate chooses to study further without obtaining permission from the State, the qualifications so obtained cannot be considered for sanction of incentive increment.

8.At this juncture, learned counsel appearing for R1 circulates a copy of G.O.Ms.No.101, School Education (Budget-1) dated 18.05.2018, which has been considered in a series of decisions of this Court, *D.Beulah Rajaselvi Vs. The District Educational Officer and 2 others [W.A(MD)No.207 of 2024, dated 27.02.2024, the State of Tamil Nadu and 3 others Vs. V.Geetha [W.A(MD)No.2240 of 2024, dated 06.11.2024]* and *the Director of School Education and 2 others Vs. T.Srilatha [W.A(MD)No.1662 of 2024, dated 27.09.2024]* in favour of the school faculty.



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9.We have heard both learned counsel and also perused the cases cited and Government Orders.

10.The grant of incentive increments is a laudable measure that was put in place by G.O.Ms.42, Education Department dated 10.01.1969, wherein the Government accepted, in principle, that incentive payments and awards should be granted to the teachers in schools who acquire higher educational qualifications. The proposal submitted by the Director of School Education to this effect was accepted and approved. The annexure to the said G.O., clearly indicates that the increments are to be given based on the acquisition of additional qualifications.

11.Thus, as early as in 1969, the State recognised the importance of teachers equipping themselves, as the quality of education imparted to students depends heavily on the educational competence of teachers. We must understand and interpret G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989, in this context.

12.G.O.Ms.No.944, dated 29.07.1989, delegates powers to the Heads of various Departments to accord permission in respect of Government servants to join correspondence courses for acquisition of



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additional qualifications. In that G.O., after examining the request of the Director of School Education, the Government has delegated powers to the Director of School Education to accord such permission, subject to the condition that the acquisition of such qualification would be useful to the school, that there is no dislocation of work in the school concerned and that there is no additional expenditure to the Government.

13.As far as condition (i) is concerned, it states the obvious, as the acquisition of qualification would certainly result in an upswing in the quality of the education provided. The reference to additional expenditure appears to be superfluous as the purpose of the G.O is to reward a studious candidate. On the aspect of dislocation of work in schools, it is the school management who would be best positioned to comment. The school, has, in this case, accepted the entitlement of R1 on all fronts.

14.G.O.Ms.No.944 is a comprehensive order, setting out the delegation of work to educational officers in the District School Administration, both qua Government and unaided schools. The competent authority, as far as Government schools are concerned, for



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permitting the acquisition of higher educational qualifications is the Chief Educational Officer.

15.As far as unaided schools are concerned, the District Educational Officer is only to approve the permission granted by the Secretary or Correspondent of the concerned high and higher secondary schools to the teaching and non-teaching staff for acquisition of additional qualifications. In our view, such approval is a mere formality, as the request of the candidate to study further would no doubt have been scrutinised by the Correspondent/Secretary/School Management and once accepted, must not be second guessed.

16.In *D.Beulah Rajaselvi Vs. the District Educational Officer and others* [W.A(MD)No.207 of 2024, dated 27.02.2024], useful reference to be made to paragraphs 6 and 7, reading as follows:

6. G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989 relied by the official respondents does not provide for the consequences. The said G.O does not dis-entitle an employee of the incentive increment if the higher qualification is acquired without obtaining prior permission. The G.O only reads about the delegation of the power to the authority to grant permission to join the correspondence course and part time course including Ph.D courses. The consequence is not provided in the said G.O. The G.O does not debar a person from incentive



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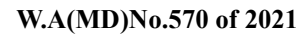


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increment upon acquiring higher qualification. The incentive increment is provided on acquiring higher qualification as per G.O.No.42, Education Department, dated 10.01.1969. The said G.O did not lay down any condition of prior permission to acquire higher qualification nor G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989 relied by the official respondents would dis-entitle the appellant of incentive increment. Similar aspects were also considered by the Division Bench in Writ Appeal bearing W.A(MD)No.822 of 2021. In the said writ appeal, the disciplinary proceedings were initiated against the employee therein for not taking permission before acquiring higher qualification. The disciplinary proceedings were set aside.

7. The learned Single Judge in W.P(MD)No. 14085 of 2015 under judgment and order dated 26.11.2020 has observed that G.O.Ms.No.944, Education (D2) Department, dated 29.07.1989 relied by the official respondents is in gross violation of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules made thereunder. It has further been observed that under G.O.Ms.No.101, School Education (Budget-1), dated 18.05.2018, the appointing authority i.e., the School Management is given the power to grant permission for acquiring higher qualification. In the said case, though the permission was not obtained from the authority concerned, the learned Single Judge directed to grant incentive increment.'

17.The above decision has attained finality. The settled position, therefore, is that, in respect of acquisition of higher degrees by faculty in unaided Schools, the State, if at all, only plays a limited, formal role, and subject to fulfilment of other conditions, the approval of the



18.Mr.Ashok, would alternatively state that, without prejudice to his main argument, incentive increments should be granted only from the date of representation by the candidate/school.

20. In light of the above discussion, we are left in no doubt that the Writ Appeal is liable to be dismissed and do so. This Writ Appeal is dismissed with no order as to costs.

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