

W.P.(MD)No.4744 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2025

CORAM:

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD).No.4744 of 2025
and
W.M.P(MD)Nos.3416 and 3419 of 2025

The Secretary,
Karapettai Nadar Higher Secondary School,
Thoothukudi – 628 001,
Thoothukudi District.

... 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,
Thoothukudi,
Thoothukudi District.
4. The District Educational Officer,
Thoothukudi,
Thoothukudi District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned Staff Fixation issued by the 3rd respondent Chief Educational Officer for the academic year 2024-2025 in the petitioner school vide proceedings in Na.Ka.No.3801/Aa4/2024 dated 30.10.2024 (received on 21.11.2024), in so far as it renders 1 Physical Education Teacher as surplus, QUASH THE SAME.

For Petitioner : Mr.K.Ragatheesh Kumar

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the 3rd respondent, dated 30.10.2024, in so far as it renders one Physical Education Teacher as surplus and quash the same.

2. The case of the petitioner is that the petitioner school is an aided non-minority educationl institution having average students strength of 1582 students. In the said school, 1 Physical Education Director and 3 Physical Education Teachers are working as a physical instructors. As per G.O.Ms.No.525, Education Department dated 29.12.1997, the petitioner school is entitled to 4 Physical Educational Teacher due to

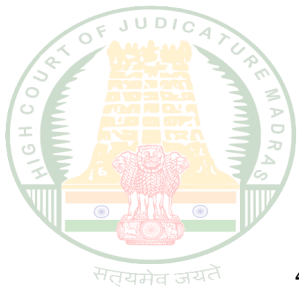


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increase in the enrollment of the students. But the third respondent vide order dated 30.10.2024 rendered 1 Physical Education Teacher Post as surplus out of the 3 sanctioned post under staff fixation for the academic year 2024-2025. The petitioner school has also submitted an objection to re-fix the said post, however the same was not considered. Aggrieved by the same, the petitioner has filed the present writ petition.

3. The learned counsel appearing for the petitioner would submit that the issue arise in the present writ petition is no longer res integra and already the Division Bench of this Court in the case of ***The Director of School Education, Chennai 600 006 and others vs. K.Uma*** reported in ***(2010) 2 MLJ 277***, has held that 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 students. 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. In view of the categorical decision, the impugned order is liable to be interfered with. Hence, he prayed for allowing of this writ petition.



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4. The learned Additional Government Pleader appearing for the respondents would submit that as per G.O.(Ms).No.525 School Education Department, dated 29.12.1997, only three Physical Education Teacher are eligible for Higher Secondary School. The contents of G.O.(Ms).No.525 are squarely applicable to all the aided High or Higher Secondary Schools whether they are minority or non minority. The G.O., came into force from 01.06.1998. The petitioner's School cannot have more than three Physical Education Teachers as the maximum number of Physical Education Teachers prescribed in the G.O. is three. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. The facts in the present case are not in dispute. Admittedly, the petitioner School was sanctioned with 1 Physical Education Director and 3 Physical Education Teachers. However, as per G.O.(Ms).No.525, dated 29.12.1997, the School is eligible for only three posts of Physical Education Teachers. However, the decision rendered by the Division Bench of this Court (cited supra) reads as follows:-



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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 students. 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.”

7. The above said decision makes it clear that when the students strength is increased, the ceiling has to be removed and required more Physical Education Teachers are to be appointed and the G.O.(Ms).No. 525, dated 29.12.1997 is not a mandatory, it is only a directory. Hence, the impugned order passed by the third respondent dated 30.10.2024 is set aside and the matter is remanded back to the third respondent for fresh consideration, in terms of the Division Bench judgment reported in (2010) 2 MLJ 277.



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8. In the result, this Writ Petition is allowed. No costs.

Consequently, the connected Miscellaneous Petitions are closed.

25.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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BATTU DEVANAND, J.

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