



W.A.(MD) No.441 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2025

CORAM:

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

**W.A.(MD) No.441 of 2019
and
C.M.P.(MD) No.3632 of 2019**

- 1.The State of Tamil Nadu
represented 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 District
Thoothukudi
- 4.The District Educational Officer
Kovilpatti, Thoothukudi District

... Appellants

-VS-

The Secretary
EVA Vallimuthu High School
Velayuthapuram, Kovilpatti
Tuticorin District-628 501

... Respondent



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 12.09.2018, passed in W.P.(MD) No.10158 of 2018, on the file of this Court.

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondent : Mr.K.Ragatheeshkumar
for M/s.Isaac Chambers

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 12.09.2018, passed in W.P. (MD) No.10158 of 2018.

2. The State has preferred the present intra-court appeal mainly on the ground that the writ order is violative of the provisions of the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973 (in short, “the Act, 1973”), and the consequential directives issued by the Government in G.O.Ms.No.132, School Education (M1) Department, dated 27.04.1998.



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3. The respondent – School filed the writ petition seeking a direction to the appellants to give permission to the respondent – School to fill up the vacant post of Pre-Vocational Instructor (Weaving) by converting the said post into Pre-Vocational Instructor (Sewing). The learned Single Judge by the impugned order allowed the writ petition. Thus, the State has preferred the present writ appeal.

4. Learned Additional Government Pleader appearing for the appellants would mainly contend that as per the Government Order in G.O.Ms.No.132, School Education (M1) Department, dated 27.04.1998, the aided school is eligible to get sanction of one post of Pre-Vocational Instructor provided 250 girls students are admitted in the school for the standards 6 to 8. The said directive was issued under Section 14 of the Act, 1973. Thus, the said Government Order is binding on the respondent – School Management. A school, without obtaining prior sanction / permission from the authority concerned, cannot appoint a candidate for receiving grant. In the present case, required number of students were not admitted in the respondent – School and as per the inspection report of the educational authorities, permission was not granted to the respondent - School. Thus, the learned



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Single Judge has not considered the statutory powers conferred on the authorities to fix norms for grant under Section 14 of the Act, 1973.

5. Learned Additional Government Pleader submitted that the Division Bench of this Court has considered the issue on hand elaborately and delivered a Judgment on 29.04.2025 in W.A.(MD) No.1017 of 2025 (***The Director of School Education, Chennai and others vs. Suyambulingam Higher Secondary School, represented through its Secretary***) allowing the said writ appeal.

6. Learned counsel appearing for the respondent - School would oppose above submissions of the learned Additional Government Pleader by stating that it is not only the strength of the girl students to be considered, but the actual necessity for appointing a Pre-Vocational Instructor must be taken into consideration. In support of his contentions, he relied on the Division Bench Judgment dated 23.08.2016 passed in W.A.(MD) No.1207 of 2016 (***The State of Tamil Nadu and others vs. S.Renganayagi and another***). That apart, the Sewing Teachers play a vital role in educating the children and therefore, the writ order impugned herein is to be confirmed.



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7. This Court has considered the rival submissions made between the parties to the *lis* on hand.

8. Section 14 of the Act, 1973 denotes “Payment of grant”. Sub Section (1) indicates that subject to such Rules as may be prescribed, the Government may continue to pay grant to the private school receiving grant from the Government, before the date of commencement of the academic year 1991-1992 at such rate and for such purpose as may be prescribed. Therefore, the grant from the Government is to be considered based on the eligibility and subject to the guidelines and directives issued by the Government. In other words, schools seeking financial grant from the Government have to comply with the guidelines and directives issued by the Government and not otherwise. Explanation to Section 14 of the Act, 1973, reads as under:

“Explanation.- For the purposes of this sub-section, private school receiving grant from the Government shall also include a private school receiving grant from the Government only in respect of any class or course of instruction.”



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9. The directives are issued by the Government then and there based on various factors. The Government must ensure that required number of students are admitted in a particular school for sanction of financial grant. Public money cannot be abused or mis-utilized and that is the reason why the Government then and there issues guidelines and directives to ensure that the financial grant is utilized for educational purposes and abuse or misuse are prevented.

10. G.O.Ms.No.132, School Education (M1) Department, dated 27.04.1998, stipulates that for granting sanction to fill up the vacant post of the Pre-Vocational Instructor post in the aided school, there must be 250 girl students from standards 6 to 8. In the absence of the required number of students, the educational authorities may not be in a position to consider the financial grant to the said school for the post of the Pre-Vocational Instructor.

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). The relevant portions of the said judgment are



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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 14.08.2020 of the school for the year 2019-2020.



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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:

....

7.A bare reading of the aforesaid



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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



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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 appeal is allowed. No costs. Consequently,



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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."



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12. Since the issue on hand was already debated and findings were given by the Division Bench of this Court, as stated supra, this Court is inclined to consider the present writ appeal.

13. Accordingly, the writ order, dated 12.09.2018, passed in W.P. (MD) No.10158 of 2018, is set aside and this writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

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

05.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

1.The Secretary,
Department of School Education,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.

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



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- 3.The Chief Educational Officer,
Thoothukudi District,
Thoothukudi.
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