

W.A(MD).No.506 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 15.09.2025

PRONOUNCED ON : 24.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.506 of 2020
and
CMP(MD).Nos.3584 and 4042 of 2020

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 (Vocational)
College Road, Chennai 600 006

4.The Chief Educational Officer
Madurai, Madurai District.

5.The District Educational Officer
Madurai, Madurai District.

....Appellants/Respondents

Vs

The Correspondent
St.Joseph's Girls Higher Secondary School
Madurai 600 009
Madurai District

....Respondent/Petitioner



W.A(MD).No.506 of 2020

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 19-03-2019 in WP(MD).No.6396 of 2019 and allow the writ appeal.

For Appellants : Mr.T.Amjadkhan
Government Advocate

For Respondent : M/s.A.Amala

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The present writ appeal has been preferred by the State challenging the order passed by this Court in WP(MD).No.6396 of 2019 dated 19.03.2019 wherein this Court has directed the Educational Authority to approve the appointment of Vocational Instructor in the Accountancy and Auditing stream with effect from 01.06.2018.

(A).Factual Matrix:

2.The writ petitioner School is an aided minority institution. The said school was granted permission by the Chief Educational Officer by way of proceedings dated 27.06.1980 to offer General and Vocational Education. As per the said proceedings, the School was permitted to run two vocational streams namely Accountancy and Dress Designing and Making.



W.A(MD).No.506 of 2020

WEB COPY

3.The Government of Tamil Nadu issued G.O.Ms.No.525 School Education Department dated 29.12.1997 fixing norms for assessment of more for teaching posts in private schools. As per Clause-IV(d) of the said order, for vocational streams, two posts of full time teachers will be sanctioned irrespective of number of courses.

4.One Ms.S.Anie Catherine who was working as a Vocational Instructor in Accountancy and Auditing stream had attained superannuation on 31.05.2018. In the said vacancy, the petitioner management had appointed Ms.K.Sahaya Prabha as Vocational Instructor with effect from 01.06.2018. The management has sent a proposal for approval on 28.11.2018. The District Educational Officer had passed an order rejecting the approval on the following grounds:

a)While issuing staff fixation order for the year 2017-2018 on 30.10.2017, in Condition No.8, it has been pointed that any vacancy for the post of Vocational Instructor could not be filled up.

b)The Director of the School Education in his proceedings dated 28.08.2003 had issued proceedings that the vacancy arising out of retirement / death of Vocational Instructor should not be filled up.

5.The above said writ petition came to be filed challenging the 8th condition in the staff fixation order dated 30.10.2017 and the consequential



W.A(MD).No.506 of 2020

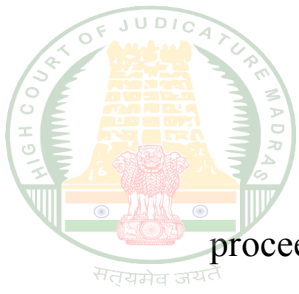
order of the District Educational Officer, Madurai dated –02.2019 wherein the proposal for approval was rejected.

6.The writ Court relying upon the decision of the Division Bench Judgment of this Court in WA(MD).No.1494 of 2017 (The State of Tamil Nadu and other Vs. The Secretary/Correspondent) dated 01.03.2018 allowed the writ petition and directed the authorities to approve the appointment of Ms.K.Sahaya Prabha as Vocational Instructor with effect from 01.06.2018. This order is put to challenge by the State in the present writ appeal.

(B)Submissions made on the side of the either counsels are as follows:

7.The learned Government Advocate appearing for the appellants submitted that under G.O.Ms.No.9 School Education (VE) Department dated 06.01.2009, there is a specific ban for appointment of new Vocational Instructor either by School Management or by the Parents Teachers Association. He had further submitted that for opening a new Vocational course, prior permission of the Government has to be obtained. Therefore on and after 06.01.2009, no new Vocational course can be started by the management and no Vocational Instructor appointment can be made. In the present case, the incumbent having been appointed on 01.06.2018, it cannot be approved.

8.The learned Government Advocate has also relied upon the



WA(MD).No.506 of 2020

proceedings of the Director of School Education dated 28.08.2003 wherein, it

WEB COPY

is pointed out that as and when a Vocational Instructor is promoted, the said post would revert back to the department. He relied upon the Division Bench judgment of this Court in *WA(MD).No532 of 2019 etc.,batch case (The Secretary to Government Department of School Education, Chennai and others Vs. Lovisal Roselin and another)* dated 09.06.2025 wherein a Co-ordinate Bench has held that the appointment order of Vocational Teacher after 06.01.2009 are not protected and they cannot be approved. He also relied upon another judgment of the Co-ordinate Bench in *WA(MD).No.935 of 2020 (The State of Tamil Nadu, Department of School Education, Chennai and others Vs. The Correspondent, St.Anne's Girls Higher Secondary School)* dated 29.08.2025 wherein decision of the *WA(MD).No.532 of 2019 etc.,batch case* has been extracted and the Bench has proceeded to hold that the sanctioned post of Vocational Instructors pertains to the individual teachers and the same is not attached to the institution in which they were engaged. The Bench has further pointed out that once the person retires or resigns for any other reason, the post is kept vacant and it is reverted back to the Department.

9.The learned Government Advocate has also relied upon a judgment of the Hon'ble Supreme Court in *Civil Appeal No.12310 of 2024* and submitted that the order passed by this Court in *WA(MD).No.1494 of 2017*



W.A(MD).No.506 of 2020

(relied upon by the writ Court) has been set aside and in such circumstances,

the writ appeal may be allowed.

10.Per contra, the learned counsel appearing for School Management submitted that the order of the Director of School Education dated 28.08.2003 is not a general instructions but it relates to a clarification issued with regard to a particular Higher Secondary School. Therefore, the same cannot be relied upon by the authority. She further submitted that as per G.O.Ms.9, School Education (VE) Department, dated 06.01.2009 prohibition is restricted to starting of new Vocational courses. It does not speak about the abolition of the Vocational streams which have been sanctioned by the authorities. When the Vocational streams continue and the students are admitted to the said courses, the authorities cannot deny approval for appointment of a Vocational Instructor to the said course.

11.The learned counsel for the respondent had further submitted that the order the Co-ordinate Bench in WA(MD).No.532 of 2019 etc, batch case or WA(MD).No.935 of 2020 have not taken into consideration of the fact that the State has not abolished Vocational courses after 06.01.2009. According to her, the students are admitted to the Vocational courses even today and they are receiving all the Government benefits. She further submitted that books are issued to the said students and they are appearing for the Board Examination for the said Vocational courses. Hence, according to her, when



W.A(MD).No.506 of 2020

the Vocational courses have not been abolished, the authorities cannot contend that the Instructor cannot be appointed to take classes for those Vocational streams. She had further submitted that the order of the Hon'ble Supreme Court refers to a non-minority institution wherein the appointment order specifically pointed out that the post would get lapsed on the retirement of a particular teacher. However, in the present case, when the approval was granted to the appointment of one Ms.S.Anie Catherine, no such condition was imposed. In such circumstances, the order of the Hon'ble Supreme Court is not applicable to the facts of the present case.

12.The learned counsel appearing for the respondent management also relied upon the staff fixation orders issued for the academic year 2019- 2020 till 2024-2025 wherein the post of Vocational Instructor is shown as a sanctioned post. She has also relied upon a Division Bench judgment in WA(MD).No.6057 of 2024 dated 09.05.2025 in support of her contentions. Hence, she prayed for sustaining the order passed by the writ Court.

13.We have carefully considered the submissions made on either side and perused the material records.

(C).Discussion:

14.The Government Advocate's submission justifying the non-approval of Vocational Instructor is solely based upon G.O.Ms.No.9 School Education (VE) Department dated 06.01.2009. According to the State, under the said



W.A(MD).No.506 of 2020

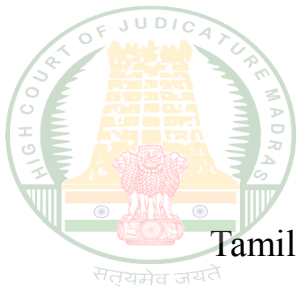
Government Order, the vocational streams of education have been abolished in the Higher Secondary Course. Therefore, for appointment of any Vocational Instructor, approval cannot be granted after 06.01.2009.

15.A perusal of the said Government Order reveals that the Government has only prohibited starting of new Vocational Courses from the academic year 2007-2008 and Vocational Instructors should not be appointed either by School Management or Parents Teachers Association. If any institution wants to start a new Vocational Course, prior permission of the Government is necessary.

16. A close scanning of the above Government Order discloses that there is no abolition of existing Vocational streams which have been already sanctioned by the Government. When the Vocational streams have not been abolished, the State cannot refuse to approve the appointment of Vocational Instructors to the said streams.

17.It is also not in dispute that the State is publishing syllabus, issues hall tickets and conducts Board Examination for all the Vocational streams even as on today. The Government has also extended all the benefits to the students admitted to the Vocational streams like supply of free books, bicycle, lap-top etc.,

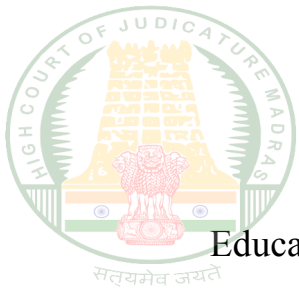
18.The private schools were earlier regulated under Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. The new Act namely



W.A(MD).No.506 of 2020

Tamil Nadu Private Schools (Regulation) Act, 2018 came into force on 13.01.2023. The Rules under the said Act were published in the Government Gazettee in G.O.Ms.14 School Education (MS) on 13.01.2003. Rule 28(4)(b) deals with minimum qualification to be possessed by a teaching or non-teaching staff of every aided private school shall be as prescribed in Annexure IV-A and Annexure IV-B respectively. Serial Nos.13 to 25 deal with educational qualification required for Vocational Instructors under various streams. Serial No.25 deals with Vocational Instructor for the stream of Accountancy and Auditing. For the said Vocational stream educational qualification of bachelor degree in Commerce has been prescribed. Therefore, it is clear that the existing Vocational streams have not been abolished under G.O.Ms.No.9 School Education (VE) Department dated 06.01.2009. Had they been abolished in the year 2009, educational qualification for various Vocational streams would not have been prescribed under 2018 Act which came into force on 13.01.2023.

19.In the impugned order, the proceedings of the Director of School Education dated 28.08.2003 has been cited as one of the reasons for not approving the appointment. A perusal of the said proceedings reveals that the Chief Educational Officer, Coimbatore has sought clarification with regard to granting approval to the appointment of a Vocational Instructor in a Higher Secondary School. The Director had issued proceedings directing the Chief



W.A(MD).No.506 of 2020

Educational Officer, Coimbatore to grant approval subject to the condition that on his retirement, the post would get reverted back to the Government. It is not known under what circumstances such a clarification was issued. It is not based upon any Government Order or any statutory provisions or rules annexed there to. It is true that if such a condition has been imposed at the time of granting approval to an appointment, further appointment cannot be made when the incumbent retires or get promoted.

20.In present case, we have perused the order of approval granted to the appointment of Ms.S.Anie Catherine under the proceedings of the Chief Educational Officer, Madurai dated 17.06.2003 wherein the appointment of Ms.S.Anie Catherine has been approved. In the said approval order, there is no condition that on her retirement, the post would get reverted back to the Government. Therefore, the proceedings of the Director of School Education dated 28.08.2003 is not applicable to the facts of the present case.

21.The norms for assessment of for teaching posts insofar as recognised private schools are concerned, they are still governed by G.O.Ms.No.525 School Education (D1) Department dated 29.12.1997. As per Clause-IV(d), two posts of full time teachers will be sanctioned for Vocational streams irrespective of number of courses. This Government Order has not yet been superseded by any other Government Orders or by statutory provisions.



W.A(MD).No.506 of 2020

WEB COPY

22.The Chief Educational Officer, Maduri has issued staff fixation order for the respondent school every year. The staff fixation order for the academic years 2019-2020, 2022-2023, 2023-2024 and 2024 -2025 reveal that the post of Vocational Instructor is sanctioned for Accountancy and Auditing stream. After sanctioning, permitting admission of students and conducting Board Examination for them, the State cannot contend that the Vocational stream have been totally abolished in the Higher Secondary Schools through out the State of Tamil Nadu.

23. A Division Bench judgement of this Court in W.A.No.3057 of 2024 dated 09.05.2025 had issued directions to approve the appointment of a Vocational Instructor (General Machinist) to a minority institution. This order has been complied with by the Chief Educational Officer, Thiruvannamalai by his proceedings dated 05.06.2025. In fact, Ms.K.Sahaya Prabha whose appointment is now sought to be approved has been appointed as a Hall Invigilator to supervise the Board Examinations.

24.At present, the School is having 40 students in the XI standard and 28 students in the XII standard of Auditing Vocational stream. Therefore, there cannot be any dispute that there are more than 60 students in the Vocational stream as on today.

25.The learned Government Advocate had relied upon a Division Bench judgment of this Court in WA(MD).No.532 of 2019 dated 09.06.2025



W.A(MD).No.506 of 2020

to contend that the approval cannot be granted to the Vocational Instructors who were appointed after 06.01.2009. The said judgment has been followed by the other Co-ordinate Bench in WA(MD).No.935 of 2020 dated 29.08.2025. The Tamil Nadu Private Schools (Regulation) Act, 2018 or Rules thereunder (wherein qualification for Vocational Instructor have been prescribed) have not been brought to the notice of these Co-ordinate Benches.

26.The learned Government Advocate has also contended that the writ Court had relied upon a Division Bench judgment in W.A.No.1494 of 2017 dated 01.03.2018 to allow the writ petition. However, the same was reversed by the Hon'ble Supreme Court in Civil Appeal No.12310 of 2024 dated 12.11.2024. Hence, he contended that the order of the writ Court is also liable to be set aside. In the said case, permission was granted to the incumbent Vocational Instructor only as a one off case by taking a sympathetic view so as to facilitate the earlier incumbents to complete their tenure, notwithstanding, the fact that the said posts have not been sanctioned. However, in the present case, while granting approval to Ms.S.Anie Catherine, no such condition was imposed that it would be a one off case. That apart, the post of Vocational Instructor (Accountancy and Auditing) continues to be a sanctioned post and gets reflected in the staff fixation order up to the academic year 2024-2025. Therefore, the judgment of the Hon'ble Supreme Court is not applicable to the facts of the present case.



W.A(MD).No.506 of 2020

WEB COPY **(D).Conclusion:**

27.In view of the above said deliberations, we do not find any merit in the writ appeal and the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(C.V.K.J.,)

(R.V.J.,)

24.09.2025.

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



WEB COPY



W.A(MD).No.506 of 2020

**C.V.KARTHIKEYAN,J.
AND
R.VIJAYAKUMAR,J.**

msa

Pre-delivery Judgment made in
W.A(MD).No.506 of 2020
and
CMP(MD).Nos.3584 and 4042 of 2020

24.09.2025