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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.11.2025

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THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

Writ Petition No.23755
and
W.M.P(MD)No.20340 of 2019

Janci Rani

... Petitioner

..Vs..

- 1.The Secretary to the Government,
Department of School Education,
St.George Fort, Chennai.
- 2.The Director of School Education,
DPI Compound,
College Road, Chennai.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Tirunelveli,
Tirunelveli District.
- 5.The Block Educational Officer,
Palayamkottai Town,
Tirunelveli District.
- 6.The Correspondent (TDTA Schools)
C.M.S.Usborre Memorial Middle School,
Palayamkottai,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned staff fixation report of the year 2012-2013 issued by the fourth respondent and subsequent impugned order passed in Na.Ka.No.338/A1/2019 dated 30.07.2019 by the fifth respondent and quash the same and consequently direct the respondents to approve the appointment of the petitioner as Pre-vocational instructor (Sewing) in the sixth respondent school with all other consequential service and monitory benefits with effect from 21.07.2018 within stipulated time.

For Petitioner	: Mr.S.Chellapandian
For R1 to R5`	: Mr.M.Sarangan Additional Government Pleader
For R6	: Mr.P.Alwin Balan

ORDER

The present writ petition has been filed against the impugned order dated 30.07.2019, in and by which, the approval of the appointment of the petitioner to the post of sewing Teacher was rejected.

2.The brief facts, which are necessary for the disposal of the present writ petition is that, the petitioner was appointed in the sixth respondent School on 21.07.2018 in the retirement vacancy of one J.Darling. Therefore, the sixth respondent forwarded the proposal for the



approval of the fifth respondent, but the same was rejected on the ground that there were no required students strength. The said order is impugned in the present writ petition.

3.Heard Mr.S.Chellapandian, learned counsel appearing for the petitioner, Mr.M.Sarangan, learned Additional Government Pleader appearing for the respondent Nos.1 to 5 and Mr.P.Alwin Balan, learned counsel appearing for the sixth respondent.

4.The learned counsel for the petitioner would submit that the post of Sewing Teacher is a sanctioned post, and that the sixth respondent being a minority institution, they can very well fill such post without any prior approval. It is his further submission that the post of Sewing Teacher is stand alone post, therefore, the criteria of students strength will have no bearing for the stand alone post. The learned counsel would submit that under Article 30(1) of the Constitution of India, right to administrate the education institution is vest with the minority institution. He would further submit that since the Management was of the firm view that the appointment of Sewing Teacher would be in the interest of the institution and the interest of the students, the denial of approval citing



the strength of the students would run counter to the constitutional right conferred under Article 30(1) of the Constitution of India. In support of his contention, the learned counsel relied upon the judgment of the Hon'ble Division Bench in ***W.A(MD)No.844 of 2024 dated 05.06.2024(The State of Tamil Nadu, represented by its Secretary, Department of School Education, Fort St.George, Chennai V The Correspondent, St.Joseph's Middle School, Ramnagar, Devakottai-630 030, Sivagangai District.)***

5.Per contra, the learned Additional Government Pleader would vehemently contend that according to the staff sanction order for the academic year 2012-2013, the post of Sewing Teacher was identified as surplus and that the management has surrendered such post to the general pool. Even on the date of retirement of the previous teacher qua J.Darling, the student strength of the school was only 139, more specifically in the middle school, the strength was only 92. The learned Additional Government Pleader would further submit that during the appointment of the petitioner, the total students strength of Std., 1 to 8 has further reduced to 85 and the middle school strength was only 56. Therefore, contended that in the staff sanction order for the academic



year 2018 - 2019 the Sewing Teacher post was not sanctioned. Therefore, the appointment of the petitioner in the said post is contrary to G.O.Ms.No.132 dated 27.04.1998. In support of his contention, he relied upon the Division Bench judgment in ***W.A(MD)No.1063 of 2020(The District Educational Officer, Tuticorin & Pudukottai, Tuticorin District and others V P.Pon Selvi)***, dated 27.11.2024, ***W.A(MD)No.1017 of 2025(The Director of School Education, Chennai and others V Suyambulingam Higher Secondary School, Represented through its Secretary, S.J.Gurusamy Pandian, T.N.Pudhukudi, Puliyangudi, Kadayanallur Taluk, Tirunelveli District)*** and ***W.A(MD)No.441 of 2019(The State of Tamil Nadu, represented by its Secretary, Department of School Educatio, Fort St George, Chennai, V The Secretary EVA Vallimuthu High School Velayuthapuram, Kovilpatti, Tuticorin District)*** dated 05.06.2025. Hence, prayed to dismiss the writ petition.

6.I have given my anxious consideration of the submission made on either side.



7.It is an admitted fact that the post of Sewing Teacher was a sanctioned post and that one Mrs.Darling was in that post until 31.01.2012. After she retired on attaining superannuation, until 21.07.2018 no appointment was made. It is relevant to mention here that for the academic year 2018 – 2019 viz., the relevant academic year when the petitioner was appointed, the post of Sewing Teacher was not sanctioned as per the staff fixation order, dated 24.05.2019. But as rightly submitted by the learned counsel for the petitioner in the 2012-2013 staff fixation order, the sewing Teacher post was sanctioned but it was identified as surplus. It is the specific contention of the petitioner, that even if the post identified as surplus, since the post is sanctioned to the sixth respondent being a minority institution, they have got right to file the post by virtue of Article 30(1) of the Constitution of India.

8.At this juncture, the learned Additional Government Pleader would invite the attention of this Court about the G.O.Ms.No.132, dated 27.04.1998, wherein the Government has made it mandatory that the appointment of Sewing Teacher should only be in a school where the students strength is more than 250. He also would invite the attention of this Court about the schedule appendant to the Right of Children to Free



and Compulsory Education Act, 2009, in which, there is a provision of part time instructor for work education if the students strength is 100 and above in class VI to VIII.

9.By referring to the above position, the learned Additional Government Pleader would submit that in the sixth respondent school neither the total strength of the student was 250, nor the students strength in the VIth to VIIIth Std is above 100. Even according to the typed set submitted by the petitioner for the academic year 2012-2013, according to the staff fixation order for the class VIth to VIIIth Std., total strength of the student is 92, and the over all total strength from 1st Std., to 8th Std., was only 139. Similarly in the staff fixation of the academic year 2018-2019, the total strength of the school qua from 1st to VIIIth Std., was 85, and the students strength in the middle school qua from VIth to VIIIth Std., was only 56.

10.However, the learned counsel for the petitioner by relying upon the judgment of the Hon'ble Division Bench in the *St.Joseph's Middle School's case (cited supra)* wold contend that notwithstanding the student strength if there is a stand alone post the same has to be



approved. According to the petitioner, the appointment of such teacher became essential as long as the student are studying in that school. The Hon'ble Division Bench in *St. Joseph's Middle School(cited supra)* has followed the earlier Division Bench judgment in ***W.A(MD)No.675 of 2024, (The Chief Educational Officer, Virudhunagar District and others V D.Gnana Theeba Rani and Others)***, wherein the Court has observed as follows:

“8.The post of Pre-Vocational Instructor is a stand alone post, that has been sanctioned for the second respondent School and that the single post in the subject Sewing is compulsory for the girl students. Without a single Teacher, the girl students cannot be thought in the said subject. Even when there is any vacancy in staff fixation strength, it can be done only in respect of Teachers for general subjects and that it could be adjusted between Secondary Grade Teacher, BT Assistant and PG Assistant, but, however, in so far as the special Teachers are concerned, particularly, like the post of Sewing Teacher, Physical Instructor and so on, these posts are sanctioned only due to the fact that atleast single Teacher is compulsorily required to teach the students on the special subjects. Therefore, the contention that since students strength had fallen below 250 in number and therefore, even the single post could be rendered as surplus, cannot be accepted for the simple reason that without any Teacher for the special subjects, the girl students,



who are studying in the School, cannot be thought, which has been taken note of by several orders by the other Division Benches and invariably directions have been issued to the State to approve those posts, which has been filled up in the sanctioned post.

9. In fact, in a similar situation, where the approval of appointment was rejected on the ground that the strength of the School has fallen below 250 students, a learned Single Judge, by <https://www.mhc.tn.gov.in/judis> order, dated 19.02.2020 in W.P.(MD)No.1321 of 2020, allowed the Writ Petition directing the appellants to approve the appointment on the ground that when the post itself is a single sanctioned post, denying approval on the ground that the post has been declared as surplus and the students strength has fallen below 250, cannot be sustained. The State had preferred appeal in W.A(MD)No.81 of 2022 and the Division Bench, by order, dated 02.03.2022 was pleased to dismiss the appeal by observing that the post, which was sought to be approved, was for Tailoring Teacher and the appointment was made by the School in the sanctioned post on the retirement of one Teacher, who was working in that post. The learned Judge has allowed the Writ Petition, which is assailed in the present Writ Appeal by relying on the judgment of the Division Bench referred supra, which cannot be found fault with.

10. In yet another Writ Appeal in W.A(MD)No.1207 of 2016, in the case of The State of Tamil Nadu and others vs



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S.Ranganayagi and another, the Division Bench, by order, dated 23.08.2016, also dismissed the appeal preferred by the State by holding that even though the student strength fallen below 250, but, however, when the post to which the Teacher has been appointed, is a sanctioned post and when the vocation training, which is a special subject, is sought to be imparted relates to Tailoring, which better suits the girl students to enhance their employment capabilities in the later part of their life, which is a wise policy of the State in view of the welfare and wellbeing of the girl child, which is a paramount consideration in the case of this nature, the order has been passed.

11. Further, another Division Bench in W.A.(MD)No.1090 of 2021, dated 15.06.2021, in the case of The State of Tamil Nadu and others -vs- V.Shyni, dismissed the appeal preferred by the State by holding that due to the importance of the physical education being imparted to the students and assuming that there is a fall in students strength, it cannot be justifiable and reasonable to declare the single post of Physical Education Teacher as surplus on the ground that there is a fall in students strength.

11. On close reading of the above judgment in W.A.No.675 of 2024, the Division Bench relied upon the earlier judgment in W.A(MD)No.81 of 2022. But, the facts of the above case is, since because the students strength come down below 250 the same cannot be



a reason to terminate the teacher and such post has to be retained till the incumbent is retired. But in our case, the main thrust of the Government submission is in reference to G.O.Ms.No.132 dated 27.04.1998. From the harmonious reading of the above G.O., we may arrive at a conclusion that though the Government took a policy decision directing the vocational teachers to be diverted to the writer, have re-considered the decision and has given promotion to appoint 168 post of vocational teachers. But, while taking such decision, the Government has conscious of student strength, and has stipulated a condition that the appointment of vocational teacher should be made only in the school where the students strength is 250 or more.

12.It is the specific submission of the learned Additional Government Pleader that in the earlier judgment, which is relied by the petitioner, the above G.O., has not been dealt with, and in this connection, the learned counsel would invite the attention of this Court about the *PonSelvi's Case(cited supra)* wherein the Hon'ble Division Bench, after referring to the order in W.A(MD)No.675 of 2024 and other Supreme Court Judgments, has deviated from the ratio of all those judgments on the sole premise that the above judgment did not default



the G.O.Ms.No.132 dated 27.04.1998. In this regard, when this Court has put pertinent question to the petitioner's counsel as to whether the judgment referred to by the petitioner has dealt upon the G.O.No.132 dated 27.04.1998, the learned counsel was not in a position to substantiate same. In *Ponselvi's case(cited supra)* the Division bench observed as follows:

“7.A bare reading of the aforesaid 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 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."

13.As rightly contended by the learned Additional Government Pleader that the sixth respondent school where the petitioner was appointed neither satisfies the criteria stipulated in G.O.Ms.No.132 dated 27.04.1998, nor fulfilled the criteria stipulated in the Right of Children to Free and Compulsory Education Act, 2009. While looking at the students strength for the academic year 2018-2019, it was only 85 from the 1st Std., to 8th Std. The strength is very much abysmal to have a sewing teacher. As held by the Division Bench, if such teacher was appointed, they absolutely cannot have any substantial work. It is the State, who is the pay Master and that they can fix stipulation. Though the sixth respondent is a minority institution their administration should be in accordance with the rules and regulations of the Government. Admittedly, G.O.Ms.No.162 is still in force, It is also relevant to refer that the *Ponselvi's case(cited supra)* was subsequently followed by the Division Bench in *EVA Vallimuthu High School's case(cited supra)*.

14.Therefore, this Court is of the firm view that since the sixth respondent school did not have the required students strength, on the date



of appointment of petitioner, the rejection for the approval of the petitioner's appointment cannot be held illegal. Accordingly, this Court does not find any infirmity in the impugned order. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.11.2025

Index::Yes/No

Ncc:Yes/No

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DPI Compound,
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C.KUMARAPPAN,J.
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Order made in
W.P(MD)No.23755 of 2019

21.11.2025