

(2005) 09 MAD CK 0070

In the Madras High Court

Case No : Contempt Petition No. 359 of 2003

Correspondent, Veludayar Hr. Sec. School

APPELLANT

Vs

Mr. C.V. Sankar, Secretary, Education Department and Others

RESPONDENT

Date of Decision : 19-09-2005

Acts Referred:

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 14

Citation : (2005) 09 MAD CK 0070

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : S. Giridharan, for the Appellant; R. Muthukumaraswamy, A.A.G., assisted by V. Karthikeyan, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—The facts giving rise to the present contempt petition and the writ petition are as follows :-

The Correspondent, Vekludaya Higher Secondary School, in the district of Tiruvarur is the petitioner. According to the petitioner, the school has been established in a place where the people are educationally and socially backward. Considering the need of the local people, the School Committee, subsequently decided to upgrade the School as Higher secondary and sought for permission from the authorities. By proceedings dated 5.7.1989 in RC. No. 310135/W/13/88, the Director of School Education, in exercise of power conferred in Government Letter No. 44925/HS2/89 dated 22.6.1989, granted provisional permission for upgradation of the aided High Schools into Higher Secondary Schools during the year 1989-90 on the strength of the declaration given by the Correspondents that they will not ask for any grant for the Higher Secondary Schools for three years. The petitioner's school was one such school, which was thus upgraded as a Higher Secondary School. By a subsequent communication dated 10.7.1989, the Director instructed that there shall not be more than two subject groups, namely, one Science subject and one Arts subject. It was further

indicated that "in the event of admitting more than the permitted strength of students, which may require division of classes, such divisions will not be permitted for the reasons there are no additional posts". It would be sufficient to appoint two P.G. Assistants for Tamil and English and 4 P.G. Assistants for science subjects and two P.G.,. Assistants for arts subjects (Total 8 P.G. Assistants for Higher Secondary Schools). By subsequent letter dated 8.8.1989, the petitioner school was permitted to start three groups with the permitted 8 P.G. Assistants. In the light of the above communication, the petitioner school started three groups of subjects, namely, Group-I Maths, Physics, Chemistry and Biology, Group-II Physics, Chemistry, Botany and Zoology, and Group-III Maths, Commerce, Accountancy and Economics, with eight P.G. Assistants. The authorities were also duly informed about the appointment of qualified P.G. Assistants. After the expiry of three years period stipulated by the Director in letter dated 5.7.1989, the school management made several representations to the Government as well as the Department to sanction and release staff Grant towards salary of all 8 P.G. Assistants with effect from July, 1992. Obviously similar representations were made by other upgraded Higher Secondary Schools on completion of three years period. Considering such representations, the Government passed an order vide G.O.Ms. No. 50 dated 20.1.1995, the relevant portion of which is as follows :-

"... The Government after careful consideration, sanction teaching and non-teaching posts to the schools as indicated in the Annexures-I, II and III to this order for assessment of salary grant with effect from 1.6.1994. The Director of Elementary Education and Director of School Education are authorised to permit assessment of salary grant for the posts in the schools under their administrative control as indicated in the Annexures I, II and III to this order on the regular scales of pay indicated therein w.e.f 1.6.1994 the minimum being allowed from 1.6.1994 with increments due in future. No arrears will be payable for the periods prior to 1.6.1994.

2. The expenditure on the staff unassessed for grant over and above the posts for which assessment of grant is now approved if any, will have to be borne by the managements of schools from their funds if they want to continue those posts. The managements are also free to disband such posts in their discretion."

2. It is claimed that under the said G.O., the Government sanctioned grant in respect of 5 P.G. Assistants with effect from 1.6.1994. It is further claimed that by Proceedings dated 1.2.1995, the Director intimated the management of the school that the salary of the three teachers not covered under G.O.Ms. No. 50 should be paid by the management, if they want to continue those posts. Several representations were made by the petitioner's school representing that the grant should be made available in respect of 3 other teachers and grant in respect of all the teachers should be made applicable with effect from July, 1992. The affected teachers had also made representations. On the basis of such representations, the then Chief Educational Officer of Nagapattinam District in his

letter dated 1.9.1995 addressed to the Director of School Education, recommended that other three teachers should also be treated as eligible for staff grant. It appears that some other affected schools and some affected teachers of other schools filed Writ Petition Nos.16093/93, 11058, 11514 and 11515 of 1995. In W.P. No. 16093 of 1993, filed by a teacher, the prayer was for issuing a mandamus to the Government to pay the salary with effect from June, 1992 and the Correspondent of the School, who was the fourth respondent in such W.P. No. 16093/93, filed W.P. No. 11058/95 on behalf of the very same school for quashing the G.O.Ms. No. 50 dated 20.1.1995 and directing the Government to release grant from 1992. Similar relief was claimed by some teachers of the very same school in W.P.Nos.11514 and 11515 of 1995. The present petitioner had filed W.P. No. 12987 of 1995 claiming that the grant should be made available with effect from July, 1992 in respect of approved staff of 8 P.G. Assistants. Two other writ petitions, W.P.Nos.12988 and 12989 of 1995, were filed by the two other Higher Secondary Schools. W.P.Nos.16093/93, 11058, 11514 and 11515 of 1995 were taken up together. It is apparent that during pendency of such writ petitions, the subsequent Government Order in G.O.Ms. No. 525 dated 29.12.1997 was issued and thereafter G.O.Ms. No. 61 dated 31.3.2001 was issued.

3. Keeping in view the subsequent developments, W.P.Nos.16093/93,11058, 11514 and 11515 of 1995 were disposed of by Justice V.S. Sirpurkar (as His Lordship then was), by observing as follows :-

"9. When the matters came up before me for hearing, it was pointed out by the learned counsel for the petitioners that the controversy is actually resolved by virtue of the subsequent Government Order in G.O. No. 525 School Education (D1) Department, dated 29.12.1997, wherein the Government has fixed fresh norms for these schools. Those fresh norms are in the nature of granting approval for the appointment of eight Post Graduate Assistants in the upgraded aided schools. Thus, the norms fixed by G.O.340 came to be changed by G.O. No. 525. It is also pointed out by the learned counsel very fairly that thereafter came G.O. No. 61, dated 31.3.2001 and in that Government Order, the Government has agreed to disburse the salaries of eight teachers in terms of G.O. No. 525, dated 29.12.1997. The copy of that G.O. No. 61 was made available to the Court by the learned Government Pleader, who makes a statement that as per the revised norms and the revised policy as displayed in G.O.Ms. No. 525 and 61, the Government has now proposed to take the exercise of making a field assessment in respect of the schools which were allowed to be upgraded from High Schools to Higher Secondary Schools. According to the Government Pleader, there are 73 such schools and about 200 posts of such teachers are under consideration. If this is so, then it is not necessary for me to decide the question and test the legality or otherwise of G.O. No. 50 and also to examine as to whether the Government should have actually granted salary for 6 + 2 posts, instead of 5 + 1. That seems to have been decided now finally by the Government by agreeing to grant the salaries of 6 + 2 posts, subject however to

the scrutiny of actual position on the field. In view of the passing of G.O. No. 61, dated 31.3.2001, I hold that all the petitions have actually become infructuous.

10. The petitioner school has no objection to such scrutiny by Government. According to the petitioner school, it is strictly within the norms that the appointments of the 8 teachers have been made. Be that as it may, it will be better to fix a time frame for such exercise and in my opinion, grant of six months time would be appropriate to complete this exercise of scrutiny of individual schools."

4. W.P. No. 12987 of 1995 filed by the present petitioner and two other writ petitions were subsequently listed before another learned single Judge of this Court. In such writ petitions, a common counter affidavit had been filed on behalf of the Government.

Before referring to the contents of such counter affidavit, it is appropriate to refer to the contents of G.O.Ms. No. 525 dated 29.12.1997. In the said G.O., reference was made to the report of High Power Official Norms Committee, which had been constituted as per GO.4(D) No. 1 Education, dated 16.8.95 " to formulate and suggest Revised Norms for sanction of teaching posts to aided schools." It was further indicated in the G.O., " In the light of the discussions and deliberations held, the High Power Official Norms Committee has suggested the following recommendations for sanction of posts in Schools. So far as the Higher Secondary Schools are concerned, the Committee had recommended :-

"IV. Higher Secondary Schools (11th & 12th standards)

a) The norms will be 8 Post Graduate teachers for a Higher Secondary School with a minimum of two groups as follows :

(i) For 2 Groups ... 6 Post Graduate Assistants

(ii) For English ... 1 Post Graduate Assistant

(iii) For Tamil ... 1 Post Graduate Assistant

b) Additional posts of Post Graduate Assistants will be sanctioned based on workload ie., 24 hours of teaching per week.

c) Regarding bifurcation of a standard, additional section will be formed when the strength exceeds 60 and so on in the slab of 40 as in the case of High Schools.

d) For Vocational Stream, 2 posts of teachers (full time) will be sanctioned irrespective of the number of courses.

e) The Post Graduate Assistant for Languages in the main stream will handle the Language classes of Vocational Stream students also.

f) For schools with a strength of over 400, one post of Physical Director will be given by up-gradation of existing post of Physical Education Teacher."

In paragraphs 6, 7, 8 and 9 of the said G.O., it was indicated :-

"6. The Government have considered the recommendations of the High Power Official Norms Committee in detail and have decided to accept the Revised Norms mentioned in Para 5 above in toto.

7. The above norms will be in supersession of Rule 17 and 18 of Madras Educational Rules and GO/,Ms. No. 250, Education, dated 29.2.1964, GO.Ms. No. 573, Education, dated 20.3.1978 and GO.Ms. No. 340, Education, Science and Technology, dated 1.4.1992. These norms for assessment for grant will be applicable to the schools opened and recognised up to 1990-91. Schools opened and recognised after 1990-91 will not be eligible for any grant (including Minority Schools) and they will be only on self-financing basis.

8. A fresh assessment of grant for posts as per these orders shall be done on the basis of average attendance. the staff strength shall be fixed by the District Educational Officer concerned concerned for High and Higher Secondary Schools and by District Elementary Educational Officer in respect of Elementary - Middle Schools. Those who may be rendered surplus due to application of these norms shall, as far as possible, be redeployed to the needy schools. The redeployment of staff in schools shall be done by the Director of School Education and Director of Elementary Education or the officers to be authorized by them. This will be in supersession of the orders issued in GO.Ms. No. 392, Education, dated 24.6.1996. In cases where such deployment is felt difficult, the surplus staff shall be allowed to continue in the same school till their retirement and then the staff strength re-fixed as per norms. So also, wherever necessary, additional posts shall be sanctioned only after taking into account the number of staff deployed to such schools. The Director of School Education and Director of Elementary Education should report the additional posts to be sanctioned as per the new norms after which formal permission in the first year alone shall be granted by Government for filling up of the posts. Subsequent fixation of staff strength shall be done by the District Elementary Educational Officer in respect of Elementary and Middle Schools. Regarding High and Higher Secondary Schools, this shall be done by the Joint Directors in the Education Department at the rate of 4 Revenue Districts per Joint Director and permission from Government to fill up the posts is not necessary.

9. The expenditure on the additional posts newly to be sanctioned in respect of High Schools and Higher Secondary Schools shall be debited to "2202. General Education - 02, Secondary Education - 110. Assistance to Non-government Secondary Schools - Schemes in the Ninth Five Year Plan -II. State Plan - JC. Assistance to aided High Schools and Higher Secondary Schools" (DPC 2202 02 1110 JC 0004). ...

10. The Director of Elementary Education (Code No. 0701) is the estimating, reconciling and controlling authority for the above new head of account. The Pay and Accounts Officer / Treasury Officer are requested to open the above new

head of account in the accounts. the Director of School Education and Director of Elementary Education are directed to send necessary proposals for inclusion of this expenditure in Budget Estimates 1998-99.

11. These orders shall take effect from 1.6.1998."

In G.O.Ms. No. 61 dated 31.3.2001, reference was made to G.O.Ms. No. 50 dated 20.1.1995 and G.O.Ms. No. 525 dated 29.12.1997, by which 5 and 8 posts respectively were sanctioned for Higher Secondary Schools, and order was passed sanctioning three more P.G. Assistants to the petitioner's school and other schools. The relevant portion of G.O.Ms. No. 61 dated 31.3.2001 is extracted hereunder :-

"5. The Government have reviewed the recommendation of the D.S.E. and sanctioned 200 P.G. Posts during 2001-2002 so as to distribute the same to the minority and non-minority schools started/upgraded prior to 1992, which had already 5 P.G. Posts under the following conditions :-

(i) Field assessment on the basis of work load and the self financing groups sanctioned prior to 1.4.92 in each school maybe conducted at Joint Director level before allotting additional posts to the private Higher Secondary Schools.

(ii) Surplus posts in the aided schools may be found out and deploy the same to the needy schools in the same management. After completing these process allotment of new posts may be considered to the said schools.

(iii) Allotment of new posts may be considered only to those schools which sent minimum 20 students in each group to the 12-th exam this year, (March 2001). further if any group which has been less than 20 students, then allotment of new posts may be considered to these schools to the said group only when such group reaches 20 students strength."

5. Thereafter, the Director in proceedings dated 13.9.2001 sanctioned and released salary with effect from 1.6.2001. Keeping in view these subsequent developments, a counter affidavit had been filed in W.P. No. 12987 of 1995. In such counter affidavit, which was prepared and filed during the month of March, 2002, all such developments till the issuance of G.O.Ms. No. 61 dated 31.3.2001 were noted. Since the contents of the counter affidavit have significance for disposal of the contempt application as well as the writ petition, it would be more appropriate to extract in extenso the relevant portions of the counter affidavit.

" 5. It is submitted that the contentions of the Petitioner that they have started the Higher Secondary Courses only on the basis of the assurance of the Government that they will be given staff grant after completion of three years is not correct and without any basis. In fact, the 2nd respondent herein permitted upgradation of petitioners' schools as Higher Secondary Schools only on self-financing basis. At no point of time, the petitioners were given any assurance for payment of grant. However, the Government have decided to extend grant with the available resources to the Petitioners' schools with effect from 1.6.1994 and

accordingly the grant has been paid to the petitioners for five P.G. Posts in terms of G.O.Ms. No. 50, Education, Science and Technology, dated 20.1.1995. Subsequently, the Government have issued revised norms in G.O.Ms. No. 525, School Education dated 29.12.1997 for assessment of grant. In terms of the revised norms issued on 29.12.1997, the petitioners' schools are entitled to have eight P.G. Posts with effect from 01.06.1998. The Government have issued orders in G.O.Ms. No. 61, Education dated 31.03.2001 sanctioning 200 P.G. Posts for being allotted to 73 Higher Secondary Schools including the petitioners herein in terms of revised norms prescribed in G.O.Ms. No. 525, Schools Education dated 29.12.1997. As such, the petitioners herein have been given required number of P.G. Posts with grant in terms of the orders issued by the Government from time to time. The above said norms prescribed by the Government and the orders extending the teaching grant are uniformly applicable to all the private schools like the Petitioners herein. In such circumstances, the petitioners alone cannot be treated differently by extending the grant for all P.G. Posts with effect from 7/1992. In any event, the petitioners herein are not entitled to claim any grant as a matter of right in view of the provisions in Section 14 of the Tamil Nadu Private Schools (Regulations) Act 1973."

A reply affidavit was filed on behalf of the petitioners at that stage indicating as to how grant had been sanctioned in respect of several schools. Reference was also made to different decisions of the High Court.

6. Ultimately, the three writ petitions were disposed of on 5.4.2002. It was observed as follows :-

"10. In fact in writ petitions W.P.16093 of 1995 etc., identical question came up for consideration. The learned Judge after referring to the entire aspect has directed the petitioners therein to make a detail representation to the authorities with regard to the disbursement of the salary of the teachers. Those writ petitions were filed by the teachers; whereas these writ petitions were filed by the management. This court is also of the same view that it is better the petitioners make their representation with regard to the disbursement of the grant from the year 19923 within four weeks from today to the first respondent giving out the particulars with regard to the sanction of such strength of the teaching staff in conformity with the strength of students etc., and the first respondent is directed to consider and dispose of the same in accordance with law within three months from the date of receipt of such representation. It is further made clear that without prejudice to their claim, if the petitioners want to claim the disbursement of the grant as per G.O.Ms. No. 50 dated 20.1.1995, it is open to them to do so. The writ petitions are disposed of accordingly with the above direction."

7. Pursuant to the aforesaid observation, the petitioner sent a detailed representation on 30.4.2002 enclosing a xerox copy of the order. Carbon copy of the order was despatched from the High Court to the Secretary, Education Department on 10.4.2002. Subsequently, a reminder was issued by the

petitioner on 10.12.2002 as no action had been taken. Ultimately when no action had been taken even after expiry of 9 months, the petitioner filed Contempt Petition No. 359 of 2003. Notice was issued in the Contempt Petition as per order dated 25.4.2003. The respondent appeared on 20.6.2003. After receipt of the notice in the contempt petition, the Secretary passed an order as per Letter No. 33383/HS2/2002-8 dated 16.6.2003 rejecting the representation of the petitioner dated 30.4.2002. In the contempt petition it was also indicated that pursuant to G.O.Ms. No. 61 dated 31.3.2001, sanction had been accorded for three additional P.G. posts with effect from 1.6.2001. After the contempt application was entertained and letter dated 16.6.2003 was communicated and a counter affidavit was filed in the contempt petition justifying the stand, W.P. No. 4310 of 2002 has been filed. In the writ petition the prayer is for quashing the letter dated 16.6.2003 and with a prayer to release salary of 8 P.G. Assistants with effect from July, 1992 onwards.

8. The contention in the contempt petition is to the effect that the respondent in the contempt petition had flouted the order of the court by not passing any order during the stipulated period. It is further submitted in connection with the said contempt petition that the contemnor had added insult to the injury by rejecting the representation without taking note of the fact that in the counter affidavit filed in WP. No. 12987 of 1995, the respondents had recognised the right of the institution to receive the grant in respect of 8 P.G. Assistants including the five teachers, who had already been recognised and sanctioned, and such amount was payable at least with effect from 1.6.1998, as indicated in G.O.Ms. No. 525. In the writ petition it is contended that the petitioner school was entitled to receive grant in respect of all the 8 posts with effect from July, 1992, after expiry of three years period. In the alternative it is submitted that since eight P.G. Assistants were required to be appointed as per the sanction letter, the grant was payable with effect from 1.6.1994. It is the further submission that whatever may be the stand relating to payment of grant in respect of three teachers before 1.6.1998, in view of G.O.Ms. No. 525, at least all the eight teachers were entitled to grant with effect from 1.6.1998, if not earlier.

9. A reply has been filed in the contempt petition stating that due to various difficulties, the order could not be passed within the stipulated period. It has been further stated that the respondent in the contempt petition had taken into account all the relevant factors in rejecting the representation. As is the wont in such matters, the usual words of apology have been "incorporated" in the reply affidavit.

10. The submission, which had been made in the contempt petition during hearing of the contempt petition at that stage, that the grant should have been made effective from 1.6.1994 or at least 1.6.1998 had been glibly met by pointing out that such matter could not be decided in the contempt application. It is obvious that such later stand has forced the petitioner to file the subsequent writ petition W.P. No. 4310 of 2005.

11. In the counter affidavit, which has been filed in the writ petition, after several adjournments and even after imposition of costs, it is mainly indicated that no school has got fundamental right or statutory right to receive grant-in-aid, and, therefore, the Government has extended the grant as per its financial capability in phase wise. The contention of the petitioner to the effect that some other schools have been granted grant on earlier dates and there was no basis to discriminate against the petitioner has been countered by stating that such stand cannot be accepted since grant in those cases are on special concessions, and assuming that those orders were wrong, the petitioner cannot claim equality in the matter of a wrong order.

12. So far as the contempt petition is concerned, it is obvious that the respondent in such contempt petition had committed contempt by not complying with the direction of the High Court regarding disposal of the representation within the stipulated period. This is not a case where there is delay of a few days or even a few weeks. As per the own admission of the respondent, there has been a delay of about nine months in disposing of the representation. As a matter of fact, such representation had been disposed of or rather dismissed only after (and may be because) notice in the contempt petition was served on the respondent.

13. When an order is passed by the High Court stipulating that a particular matter is to be disposed of within a particular time, it is expected that the State, and far more, its subordinate officers should comply with such direction and if, for any reason, the direction cannot be complied with within the stipulated period, the State or the Officer concerned is expected to file application for extension of time to comply with such order. Neither the State nor its Subordinate officer is free to just ignore the order and keep quiet or sit tight for a considerable length of time. If the orders passed by the High Court, particularly, the orders calling upon the State or the Officer to dispose of a particular matter, would be complied with, within the time stipulated less number of contempt applications would be filed. The sad experience shows that such orders passed by the High Court directing the State or the officer to dispose of a particular matter within a particular stipulated time, are obeyed more in their breach. The filing of such applications of contempt, undoubtedly, adds to the exploding dockets in the Court. Such situation can be best avoided by the State and its officials by complying with the directions of the High Court. Mere giving of excuses after long lapse does not help either the High Court in disposal of the matter or the government as it is exposed to more number of contempt petitions by adopting such a lackadaisical attitude. Time has now come when the High Court is required to be strict in such matters or otherwise the orders of the High Court stipulating a particular time for disposal of a particular matter would become a laughing stock. In such view of the matter there is no escape from the conclusion that the respondent in the contempt application has committed contempt by not complying with the order passed by the High Court, in spite of reminder being issued by the applicant, and not even requesting for extension of

time and merrily waiting for notice in the contempt application to deal with the matter. The respondent has made the matter worse for himself in filing a reply affidavit more or less repeating the stand taken in the previous writ petition, but significantly omitting the crucial stand therein to the effect that the petitioner school is entitled to eight teaching posts with effect from 1.6.1998. The omission to explain or (even to refer) to such categorical stand only makes it more clear regarding the intention not to follow the direction in letter and spirit.

14. Keeping in view the facts and circumstances, I feel the respondent should be visited with punishment of fine of Rs. 5,000/- (Rupees five thousand only) for wilful violation of the Court's order in not disposing of the matter within the stipulated period and not even bothering to seek for any extension of time. The respondent is also liable to pay Rs. 1000/- to the petitioner towards costs in such contempt application. The fine amount and the costs should be paid within a period of four weeks from the date of receipt of a copy of this order. The fine amount, if paid, should be credited to the account of Mediation and Conciliation Centre, High Court, Madras.

15. Coming now to the question raised in the writ petition, in my opinion, the question of payment of grant in respect of all the eight teachers should be confined to the terms of G.O.Ms. No. 525 dated 29.12.1997, even though the contention of the petitioner that the petitioner's school was entitled to receive grant in respect of all the eight teachers with effect from 1.6.1994, if not from July, 1992, is not without prima facie merit. This is so because even though G.O.Ms. No. 525 dated 29.12.1997 was issued, which was made effective on 1.6.1998, the petitioner has never thought it fit to specifically challenge such G.O. It appears that the petitioner as well as other schools / teachers have accepted G.O.Ms. No. 525 dated 29.12.1997, which has been made effective from 1.6.1998. It is also to be noted that in the earlier writ petitions G.O.Ms. No. 50 dated 20.1.1995 had not been challenged and only prayer was that payment should be made to all with effect from July, 1992. Therefore, the question of petitioner's claiming grant with effect from 1.6.1998, pursuant to G.O.Ms. No. 525 dated 29.12.1997, is only required to be considered.

16. It is of course true, as contended by the learned Addl. Advocate General, that no school as a matter of statutory right or fundamental right can claim that grant should be allowed to such school. Learned Addl. Advocate General is also right in contending that there is nothing in the order dated 5.7.1989, which guarantees payment of grant after the initial period of three years. All it says is that for three years the school cannot claim any grant, but it does not mean that after expiry of three years, such claim is bound to be allowed. The only possible interpretation is that after expiry of three years, only the school would be in a position to apply for grant, but whether such grant would be given or not would depend upon the orders to be passed by the State Government. Even to that extent it can be said that the petitioner's school had no right to receive any grant at any particular time but its application for receipt of grant was required to be considered along

with other schools which were similarly situated. After passing of G.O.Ms. No. 50 dated 20.1.1995, schools in question were entitled to receive grant in respect of five teachers with effect from 01.06.1994. Subsequently, G.O.Ms. No. 525 dated 29.12.1997 was issued by the Government considering various representations made by the various schools.

17. Learned Addl. Advocate General contended that such G.O.Ms. No. 525 dated 29.12.1997 merely laid down the norms relating to the teacher - student ratio in a particular school, but it did not contain any direction regarding grant to such school. The aforesaid ingenuous contention seems to run contrary to the terms of G.O.Ms. No. 525 dated 29.12.1997. The relevant provisions of such G.O., has already been extracted. The heading of the said G.O., itself indicates "School Education - Recognized Private Schools - Revision of norms for assessment of grant for Teaching Post - Orders Issued. It is thus obvious that the order is not merely intended to lay down the norms regarding Teacher - Pupil ratio in the school, but it specifically intends to be a revision of norms for assessment of grant for teaching posts. Even the first paragraph of the order itself indicates that the fixation of staff strength in Higher Secondary schools was governed by G.O.Ms. No. 537 dated 20.3.1978. The G.O. also specifically refers to the fact that the Government had constituted a High Power Official Norms Committee "to formulate and suggest Revised Norms for sanction of teaching posts to aided schools". It is thus obvious that the background on the basis of which the G.O., was passed, related to sanction of teaching posts to aided schools and not merely fixing yardstick of the teacher-student ratio of any private school. The Order also specifically recites " In the light of the discussions and deliberations held, the High Power Official Norms Committee has suggested the following recommendations for sanction of posts in Schools." It is thus obvious that the proposal was for sanction of posts which inevitably means that once the post is sanctioned, aid is to be granted. Paragraph 6 of the G.O. makes it clear that the Government accepted the revised norms fixed by such High Power Committee. In paragraph 7 it has been categorically stated "These norms for assessment for grant will be applicable to the schools opened and recognised up to 1990-91. Schools opened and recognised after 1990-91 will not be eligible for any grant and they will be only on self-financing basis." Paragraph 11 of the G.O., made it clear that the orders shall take effect from 1.6.1998. It is thus evident that as per the aforesaid G.O., a categorical decision was taken regarding entitlement of grant in respect of eight posts in a Higher Secondary School. The only thing which was required to be done was that assessment for grant of posts as per such order shall be done on the basis of average attendance as indicated in paragraph 8. Even the Government was convinced of the fact that some teachers may be rendered surplus and there should be redeployment. It was further indicated in paragraph 8 that "In cases where such deployment is felt difficult, the surplus staff shall be allowed to continue in the same school till their retirement and then the staff strength re-fixed as per norms."

18. A careful reading of the relevant portions of the G.O., makes it clear that with

effect from 1.6.1998, the norms fixed as per the G.O., was the guideline and the schools were entitled to receive grant in accordance with the said G.O. As a matter of fact, in paragraph 9, it was also clearly stipulated that the expenditure would be borne under which particular head and, in paragraph 10, the Director was directed to send necessary proposal for inclusion of this expenditure in Budget Estimates 1998-99. It should be noticed that such G.O was passed on 29th December, 1997 and six months time was made available.

19. From the aforesaid analysis of G.O.Ms. No. 525 dated 29.12.1997, there is no iota of doubt that the aided Higher Secondary Schools, which had been established prior to 1989-90 and in respect of which sanction had already been accorded in respect of five teachers, were entitled to receive grant in respect of eight teachers. In this context, it is also to be borne in mind that right from the inception, the authorities had made it clear that in respect of Higher Secondary Schools, there should be eight teachers.

20. The subsequent G.O.Ms. No. 61 dated 31.3.2001 does not purport to supersede G.O.Ms. No. 525 dated 29.12.1997. It merely appears to be a follow-up action, wherein 200 posts were sanctioned. Similarly, the subsequent proceedings dated 13.9.2001 is also a follow-up action and obviously the Director of School Education did not have any jurisdiction to go behind the policy decision of the Government, which has been clearly reflected in G.O.Ms. No. 525 dated 29.12.1997. It is worthwhile to note that on earlier occasion, while filing the counter affidavit, the respondents were quite clear that the petitioner school was entitled to 8 posts with effect from 1.6.1998, which was clearly reflected in the counter affidavit filed in clear terms. It is significant to point out that in the counter affidavit filed in the contempt petition, the respondents had never tried to explain such categorical stand in the counter affidavit of the State, wherein it was clearly admitted that the school was entitled to eight posts with effect from 1.6.1998. Only after much probing the respondents have come out with a belated explanation that such counter affidavit was intended to highlight only the minimum requirement for the higher secondary school.

21. As already indicated, a careful analysis of G.O. Ms. No. 525 dated 29.12.1997 makes it clear that the Government had clearly laid down that with effect from 1.6.1998, the aided higher secondary schools would be entitled to have eight teachers. The Government had merely prescribed therein that the actual assessment relating to which school would be entitled to such eight teachers would depend upon the further report by assessing the relevant factors. However, once such task is undertaken, it is obvious that the school concerned, which fulfils the criteria provided in G.O.Ms. No. 525 dated 29.12.1997, would be entitled to the grant with effect from 1.6.1998, which had been clearly indicated in such G.O. The counter affidavit filed by the Government on the earlier occasion had merely reiterated the said position and subsequently the respondents are trying to wriggle out of such position. Since there is no dispute that the petitioner's school had already fulfilled the requirements as required

under G.O.Ms. No. 525 dated 29.12.1997, it is entitled to receive the aid in respect of eight teachers with effect from 1.6.1998. Since the petitioner's school was receiving aid in respect of five teachers by virtue of earlier order passed by the Government, the school is entitled to receive grant in respect of three other teachers with effect from 1.6.1998.

22. For the aforesaid reasons, the writ petition is allowed. A direction is hereby issued to the respondents to grant aid in respect of three teachers with effect from 1.6.1998. This order is required to be carried out within a period of sixty days from the date of receipt of a copy of this order. There would be no order as to costs in the writ petition.