

(2011) 08 MAD CK 0433

In the Madras High Court

Case No : Writ Petition (MD) No"s. 12607 and 13831 of 2009

G. Arul The Correspondent CMS Evangelical Suvi David
Memorial Higher Secondary School Karisal

APPELLANT

Vs

The Director of School Educational, College Road, Chennai,
The Chief Educational Officer, Tirunelveli District, Tirunelveli
and The District Educational Officer, Cheranmahadevi at
Tirunelveli Tirunelveli District

RESPONDENT

Date of Decision : 25-08-2011

Acts Referred:

Citation : (2011) 08 MAD CK 0433

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : Isaac Mohanlal, for the Appellant; T.S. Mohammed Mohideen,
Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice P. Jyothimani

1. While the Writ Petition in W.P. No. 12607 of 2009 relates to the academic year 2008-09, W.P. No. 13831 of 2009 relates to the academic year 2009-10, the Petitioner claims himself to be the Correspondent of the school, which is an aided minority school. It appears that in respect of fixation of staff strength for the said school, apart from one post of Headmaster, 7 posts of P.G. Assistants, 3 posts of B.T. Assistants and 8 Secondary Grade Teachers, 2 Tamil Pandits, one Drawing Teachers, one Physical Education Teacher and one Sewing Teacher are sanctioned strength.

2. In these writ petitions, we are concerned about the three sanctioned posts of BT assistants and 8 Secondary Grade Teachers posts in the said school. Now, B.T. Assistants and Secondary Grade Teachers are called as B.T. Assistants. Therefore, there are 11 sanctioned B.T. Assistants. The impugned order, which is challenged in these two writ petitions, is related to the surrender of one B.T.

Assistant as surplus in the school for both the academic years, namely, 2008-09 and 2009-10 respectively, that is seen in the proceedings of the second Respondent, wherein, while stating about the B.T. Assistants, one is shown for the two academic years as surplus. The Petitioner is aggrieved by the same. It is also not in dispute that for the subsequent years, namely, 2010-11, the said one post of B.T. Assistant, which has been shown as surplus, has been granted to the Petitioner school. It appears that the said dispute revolves around the number of students, who are studying in various classes, especially in classes 6,7,8, 9 and 10th standards respectively.

3. The students strength given by the Petitioner in the list for the academic year 2008-09 is as follows:

Classes

Students strength

VI

129

VII

117

VIII

166

IX

138

X

137

1:4 being the Teacher-students ratio, if the number of students in the class exceeds 60, the school is entitled to have two Teachers, and, if it exceeds 100, three teachers are minimum and that has also been the view taken by the Full Bench of this Court in Director of Elementary Education, Chennai-6, and Ors. v. S. Vigila and Anr. reported in 2006 (5) CTC 385. Where in, the Full Bench of this Court, while interpreting G.O. Ms. No. 525 School Education (D1) Department, dated 29.12.1997, has observed as follows:

23. Keeping in view the various relevant aspects, we feel that G.O. Ms. No. 525, dated 29.12.1997 should be interpreted in the following manner:

(1) The ratio of students-teacher strength as indicated in the G.O. should be primarily considered by taking each individual standard/section as a unit.

(2) The minimum strength of teachers required obviously should not fall below the number of standards/section in a school. In other words, if there are five

standards, obviously the minimum number of teachers should be five, out of which one would be the Headmaster.

(3) If the students' strength in a particular standard exceeds 60, at that stage, an additional section is required to be created requiring the sanction of a second teacher and the strength reaches 100, the post of a third teacher is required.

(4) Even after maintaining the aforesaid ratio by taking into account the students' strength of each individual standard and additional section, as the case may be, by keeping in view the teacher- students ration 1:40 of the entire school if the teachers strength is required to be increased, the same has to be allowed, but in no case, the teachers' strength should be less than the number of standards including the additional sections. If more teachers are thus sanctioned keeping in view the over all strength of the school, the authorities of the school should create additional section in respect of any particular standard according to the need and convenience keeping in view the standard of education. This requirement is not only in respect of Aided schools or Government Schools, but also in respect of any private recognised School. In other words, this ratio is to be maintained for any School which requires recognition.

(5) It would be obviously open to the Government to formulate appropriate norms in consonance with the above observation and provisions of the Constitution.

Likewise, for the academic year 2009-10, the following particulars of the students are furnished by the Petitioner, namely,

Classes

Students strength

VI

145

VII

127

VIII

153

IX

153

X

124

Therefore, according to the said list, which has been given for the academic years 2008-09 and 2009-10, the strength of the students contemplates that the

impugned order by showing of one B.T. Assistant as surplus in not in accordance with the students-Teacher ratio, as confirmed by the Full Bench judgment.

4. On an earlier occasion, when the matter was argued, this Court directed the learned Additional Government Pleader to find out the actual students strength in the Petitioner school in respect of academic years 2008-09 and 2009-10. Today, the learned Additional Government Pleader has produced the particulars relating to the students strength, which also correlates the statement given by the Learned Counsel for the Petitioner as to the students strength as extracted above. Therefore, on the factual matrix, it is clear that showing of one B.T. Assistant as surplus in the Petitioner school has no legal basis whatsoever. Therefore, the contention raised on behalf of the Respondents, as if, the students strength has come down or the post has to be surrendered has no meaning. Accordingly, on this short ground that the students strength in the Petitioner school remained as it is, which entitled the school to have the said 11 B.T. Assistants, the impugned order/proceedings of the second Respondent in denoting one B.T. Assistant as surplus is set aside, holding that the Petitioner school is entitled to the said post on the students strength, which is entitled to have 11 B.T. Assistants. Accordingly, the writ petitions stand allowed and it is for the third Respondent to consider the proposal stated to have been sent by the Petitioner on 11.09.2009 and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

5. It is stated that in respect of one vacancy, which was wrongly declared as surplus, the Petitioner has made certain appointment. It is stated that in the retirement vacancy of one existing teacher Rosaline, who retired on 02.01.2008, the Petitioner made an appointment of one K. Koildasan as B.T. Assistant on 13.08.2008 and he was also relieved on 21.08.2009 and thereafter, it is stated that the Petitioner has appointed one Ms. Velammal on 24.08.2009. After appointing her, it appears that the Petitioner has sent a proposal to the third Respondent District Educational Officer on 11.09.2009 for approval of her appointment, which is still pending. It is now informed that there has been some dispute regarding the Petitioner holding the post of Correspondent of the School and a writ petition has also been filed in W.P.(MD) No. 8596 of 2008, which is pending before this Court and there is no interim order. However, in respect of receipt of Form 7, there appears to be some cases pending in the Hon'ble Supreme Court and there has been an interim order in favour of the Petitioner. Be that as it may, the issue about the correspondentship or validity of the Form 7 or other issues pending either before this Court or in the Supreme Court, are based only on the final decision of the Supreme Court. This Court has not expressed any opinion on the merits of the issue. It is needless to state that the judgment of the Supreme Court on the issue will be binding on all. No costs. Consequently connected miscellaneous petitions are closed.