

(2011) 09 MAD CK 0342

In the Madras High Court

Case No : Writ Petition No's. 18683 and 18684 of 2003 and WPMP. No's. 23364 and 23365 of 2003

The Correspondent St. Joseph's Higher Secondary School,
Udhagamandalam The Nilgiris-643 001

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 21-09-2011

Acts Referred:

Citation : (2011) 09 MAD CK 0342

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : Isaac Mohanlal, for the Appellant; S.V. Duraisolaimalai, Addl. Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice T. Raja

1. There are two writ petitions filed by the Correspondent, St. Joseph's Higher Secondary School, Nilgiris. Writ petition in W.P.No. 18683 of 2003 is directed against the order of the 3rd respondent viz., Chief Educational Officer, Udhagamandalam in Na.Ka.No. 11718/A4/2002 dated 29.5.2003 transferring Father A. Mark Monford, BT Assistant - History to St. Francis Xavier Higher Secondary School, Panthalur.

W.P.No. 18684 of 2003 is directed against the order of the 3rd respondent Chief Educational Officer, Udhagamandalam in Na.Ka.No. 11718/A4/2002 dated 29.5.2003 holding the post of Thiru. Paul Arockiadhas, BT Assistant-Science as surplus and thereby surrendering the same to the 2nd respondent Director for onward transfer to any other district.

2. The learned counsel appearing for the petitioner submits that the school viz. St. Joseph's Higher Secondary School, Udhagamandalam, is a recognised educational institution, administered by Diocese of Nilgiris as Religious Minority

School out of the charities given by various churches and other philanthropists. The Diocese is also getting Government Aid to some of the institutions and there are three higher secondary schools, 12 high schools, 4 middle schools, 20 primary schools and other charitable institutions like Orphanages, Technical Institutes, Social centres etc.

3. When the matter stands above, he added that in the year 1939, the petitioner school was started and in view of the above motto of the Diocese in running schools, recognition was granted to the petitioner-school in the year 1942. Subsequently, in the year 1978, it was upgraded as higher secondary school and also is enjoying the Government Aid.

4. The learned counsel for the petitioner further submits that the students are children of plantation workers and coolies and no fee or charge is collected from them. He further submits that in view of the standard maintained by the petitioner-school, it has been upgraded as second best school in the district. While so, the Government issued G.O.Ms.No. 525 (School Education) dated 29.12.1997 for appointment of teachers, which came into force on 1.6.1998, in and by which a new ratio of one teacher for every 40 students was adopted in principle. On the basis of 1: 40 teacher-pupil ratio, when the petitioner school was having 507 students, only 9 teachers were taking care of entire strength of the school. He further submits that as per the said G.O.Ms.No. 525, the school is eligible for 14 BT Assistants and in the year 2002-2003, the students strength was 507 and in the year 2003-2004 it further increased to 540.

5. It is further submitted by the learned counsel for the petitioner that the third respondent while passing the first impugned order in Na.Ka.No. 11718/A4/2002 dated 29.5.2003, transferred Father A. Mark Monford, BT Assistant-History to St. Francis Xavier Higher Secondary School, Panthalur. It is also submitted that the third respondent in the second impugned order dated 29.5.2003, held the post of Thiru. Paul Arockiadhas, B.T. Assistant, as surplus and surrendered the same to the 2nd respondent Director for onward transfer to any other district). The said orders are challenged in these writ petitions.

6. Therefore, the grievance of the petitioner is that the impugned orders of the third respondent viz. Chief Educational Officer, Udhagamandalam, are not only erroneous, but also running contrary to G.O.Ms.No. 525 (School Education) dated 29.12.1997, as the very ratio mentioned in the above Government Order has not been followed. The learned counsel for the petitioner further submitted that when the students strength in the year 2003-2004 is 540, transferring one among 9 teachers is arbitrary and unreasonable and the third respondent, instead of increasing the sanctioned posts from 9 to higher strength, erroneously passed the impugned orders dated 29.5.2003, transferring Father A. Mark Monford, BT Assistant - History to St. Francis Xavier Higher Secondary School, Panthalur and also held the post of Thiru. Paul Arockiadhas, BT Assistant-Science as surplus. He further submitted that before the said impugned orders were passed, no notice or opportunity was given to the petitioner-school, therefore for

the total strength of the 507 students in the year 2002-2003, the teachers should not have been reduced from 9 to 8.

7. However, when these writ petitions were filed, this Court, after taking note of the students strength, has passed an order of stay against the impugned orders, as a result, Rev. Father A. Mark Monford, who was working as BT Assistant, by taking class in History subject, was further promoted to the post of Headmaster. But thereafter, the respondents have not even permitted the petitioner School to fill up the said post.

8. The learned counsel for the petitioner, by placing reliance upon a decision of a Full Bench of this Court in Director of Elementary Education Vs. S. Vigila (2006) (5) CTC 385, further argued that in terms of para 23(2) and (3) of the above Judgment, the minimum strength of teachers required obviously should not fall below the number of standards/section in a school, namely; if there are five standards, obviously the minimum number of teachers should be five, out of which one would be the Headmaster, and 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. On the above basis, he prays for setting aside the impugned orders by complaining that the above ratio has not been followed properly, this in turn, has affected the students studies.

9. Per contra, the learned Additional Government Pleader, by relying upon another unreported Common Order of a Division Bench of this Court in W.P.No. 37441 of 2002 dated 23.12.2005, drew the attention of this Court to paragraph No. 10 of the Order, wherein it has been held that while ascertaining the Teacher-Pupil strength, the educational authorities should fix up the teacher-pupil ratio as 1:40 and only when the pupil strength is 80, the second teacher post will be sanctioned and likewise when the strength is 100, 3rd teacher post will be sanctioned and the 4th teacher post should be considered only if the students strength touches 140 and 5th teacher post only when the pupil strength reaches 180 and so on. This argument does not carry any substance in view of the ratio laid down by the Full Bench of this Court in the above mentioned decision reported in Director of Elementary Education Vs. S. Vigila (2006) (5) CTC 385).

10. As I mentioned earlier, when the impugned order dated 29.5.2003 was passed by the third respondent in W.P.No. 18683 of 2003 by transferring Father A. Mark Monford, BT Assistant, while taking class in History subject to St. Francis Xavier Higher Secondary School, Panthalur, the students' strength in standards IX and X in the year 2002-2003 viz. 507 was increased to 540. Therefore, it is not the case of the third respondent that they have applied the ratio mentioned in G.O.Ms.No. 525 (School Education) dated 29.12.1997, as claimed by the learned counsel for the petitioner when the school had only nine teachers for the entire students' strength of 507 and also 540 in the year 2003-2004. After the students' strength was increased to 540, the respondents should have increased the sanctioned post of teachers from 9 to more posts as per G.O.525. On the

contrary, they have reduced the teachers' post from 9 to 7. Therefore the impugned order dated 29.5.2003 passed by the third respondent in W.P.No. 18683 of 2003 is liable to be quashed.

11. In respect of the second impugned order dated 29.5.2003 passed in W.P.No. 18684 of 2003, holding the post of Thiru. Paul Arockiadhas, BT Assistant, who was taking class in the subject Science as surplus and surrendering the same to the 2nd respondent for onward transfer to any other district, it is also liable to be quashed, for an obvious reason that since the students' strength was admittedly 507 in both IX and X standards during the year 2002-2003 and increased to 540 during the year 2003-2004, the third respondent, on the basis of G.O.Ms.No. 525 (School Education) dated 29.12.1997, should have increased the sanctioned post of teachers from 9 to more posts. On the contrary, the third respondent, without even issuing notice to the petitioner School, calling upon the petitioner to submit any explanation as to why sanctioned posts of teachers should not be reduced from 9 to 8, has wrongly passed the second impugned order, by holding the post of Thiru. Paul Arockiadhas, BT Assistant, taking class in the subject Science as surplus. Therefore I am of the considered view that in both the impugned orders dated 29.5.2003, the third respondent has committed serious mistakes in not issuing prior notice to the petitioner and not applying G.O.Ms.No. 525 (School Education) dated 29.12.1997, hence, both the impugned orders of the third respondent dated 29.5.2003 are set aside. It is needless to mention that from the date of the impugned orders, as an order of interim stay has been granted by this Court, the same is made absolute.

12. Both the writ petitions are allowed. No costs.

Connected WPMP.Nos.23364 and 23365 of 2003 are closed.