

(2009) 09 MAD CK 0137

Madras High Court

Case No: Writ Appeal No. 899 of 2009

The Government of Tamil Nadu

APPELLANT

Vs

J.R. John Samuel Nallathambi

RESPONDENT

Date of Decision: Sept. 1, 2009

Hon'ble Judges: S.J. Mukhopadhaya, J; N. Kirubakaran, J

Bench: Division Bench

Advocate: D. Sreenivasan, Addl. Govt. Pleader, for the Appellant; S.N. Ravichandran, for the Respondent

Final Decision: Dismissed

Judgement

S.J. Mukhopadhaya, J.

The writ petition filed on behalf of Adi Dravida School (hereinafter referred to as "School") having been allowed, the present writ appeal has been preferred by the State.

2. It is not in dispute that Adi Dravida School, Ramaiyanpatti was established as a Primary School in the year 1942. It is an aided minority school for the Scheduled Caste children. The school was permitted to be upgraded as Middle School in the year 1977 and the Chief Educational Officer, Tirunelveli passed an order 18.9.1992 and granted permanent recognition to the School as Middle School. The School is not collecting any fee and is granting free education to children less than 14 years and was later on upgraded as High School in the year 2001, without aid.

3. The District Educational Officer, Tirunelveli, finding that the School having recognised as aided minority School and upgraded as High school on 8.10.2005 and having 410 students in middle school sections, i.e. 159 for standard 6, 131 for standard 7, 120 for standard 8, fixed the divisions as 4+3+3 and sanctioned the posts of nine secondary grade teachers and one craft instructor. However, the said fixation having not made in accordance with G.O.Ms. No. 525 dated 29.11.1997 issued from Education Department, the School filed a writ petition in W.P.(MD) No.

9308 of 2008 and prayed for sanction of one B.T. Grade Headmaster, two Tamil Pandits and one Physical Education Teacher, as per the Government Order.

4. The Madurai Bench of this Court directed the educational authorities to consider the representation preferred by the Management of the School and to pass an order. Thereafter, details were called for by the Director of Elementary Education, Chennai and the District Educational Officer, Tirunelveli District submitted his report. It was informed that the School is entitled to have 11 Secondary Grade teacher posts for standard 6 to 8, two Tamil Pandits and one Physical Education Teacher, of which, only 10 secondary Grade teacher posts are sanctioned and the additional requirements are one Secondary Grade Teacher, two Tamil Pandits and one Physical Education Teacher.

5. In spite of such report granted in favour of the School, the Government of Tamil Nadu, from its education department, intimated the Management of the School by letter dated 2.1.2007 that no decision was taken by the Government to sanction additional posts to aided School in accordance with G.O.Ms. No. 525 dated 29.11.1997.

6. In this background, the writ petition was preferred. The learned single Judge, by the impugned order dated 26.3.2008, noticed the aforesaid fact and decision of the Supreme Court in [The Chandigarh Administration and Others Vs. Mrs. Rajni Vali and Others](#), wherein, the Court observed as follows:

6. imparting primary and secondary education to students is the bounden duty of the State Administration. It is a constitutional mandate that the State shall ensure proper education to the students on whom the future of the society depends. In line with this principle, the State has enacted statutes and framed rules and regulations to control/regulate establishment and running of private schools at different levels. The State Government provides grant-in-aid to private schools with a view to ensure smooth running of the institution and to ensure that the standard of teaching does not suffer on account of paucity of funds. It needs no emphasis that appointment of qualified and efficient teachers is a sine qua non for maintaining high standards of teaching in any education institution.

7. ...

8. ...

9. ...

10. Coming to the contention of the appellants that the Chandigarh Administration will find it difficult to bear the additional financial burden if the claim of respondents 1 to 12 is accepted, we need only say that such a contention raised in different cases of similar nature has been rejected by this Court. The State Administration cannot shirk its responsibility of ensuring proper education in schools and colleges on the plea of lack of resources. It is for the authorities running the Administration to find

out the ways and means of securing funds for the purpose. We do not deem it necessary to consider this question in further detail. The contention raised by the appellants in this regard is rejected.

7. Further, taking into consideration the Full bench decision of this Court in [C. Manonmony Vs. State of Tamil Nadu and Others](#), , and other decisions, allowed the writ petition.

8. The learned Additional Government Pleader appearing on behalf of the State tried to suggest that it is the discretion of the State to decide as to the posts to be sanctioned or not and the Court should not have given a positive direction to sanction the posts. However, the said submission cannot be accepted as the State cannot discriminate between the aided schools, by allowing full teaching and non teaching employee strength to one school and disallowing such benefit of strength of teaching and non teaching employee to the other school, even though sanctioning of the post is the discretion of the State.

We find no illegality in the order of the learned single Judge. Accordingly, the writ appeal stands dismissed. There shall be no order as to costs. Consequently, M.P. No. 1 of 2009 is dismissed.