**0IN THE HIGH COURT OF MADRAS**

W.P. No. 10574 of 2012

Decided On: 15.11.2012

Appellants: **Y. Elizabeth Rani**
**Vs.**
Respondent: **The Convener, Board of Elementary Education, C.S.I. Diocese of Vellore, No. 3A, Officers Line, Vellore, The Head Master, V.R.V. Elementary School, Walaja East Range, Ranipet, The Head Master, M.D. Elementary School, Periyaramapuram, R.K. Pet Range, Tiruttani Taluk, Tiruvellore District and The District Elementary Educational Officer, Vellore District, Vellore**

**Hon'ble Judges/Coram:**
Hon'ble Mr. Justice K. Chandru

**ORDER**

**Hon'ble Mr. Justice K. Chandru**

1. This writ petition is filed by the petitioner seeking to challenge the order dated 21.3.2012 passed by the first respondent Convener, Board of Elementary Education, C.S.I. Diocese of Vellore. By the said order, the petitioner, who was working as the Secondary Grade Assistant in the second respondent school was transferred to M.D. Elementary School, Periyaramapuram, R.K. Pet Range, Tiruttani Taluk, Tiruvellore District, along with her post. It was stated in the impugned order that the transfer was due to administrative grounds, as the petitioner was found to be surplus for the requirement of the said school. The petitioner, challenging the said transfer order, filed the present writ petition.

2. When the writ petition came up on 18.4.2012, this Court ordered notice of motion returnable by six weeks. Pending the notice, it was claimed by the petitioner that the sanctioned strength of any Elementary School is five, and therefore interim stay was granted by this Court for six weeks, vide order dated 18.4.2012. Subsequently, it was extended from time to time.

3. In the meanwhile, on notice from this Court, the first respondent has filed the counter affidavit dated 6.7.2012. The stand of the Convener, Board of Elementary Education, CSI Diocese, is that the order came to be passed in accordance with the sanction of staff strength, vide G.O.Ms.No. 231, School Education Department, dated 11.8.2010. By the said G.O., the Government has fixed the staff strength in Government aided elementary schools and consequential orders were passed to the District Elementary Educational Officer, Vellore. As per the direction issued by the District Educational Officer, namely, the 4th respondent herein, three secondary grade posts were found excess in the second respondent school. Therefore, the petitioner was transferred and two other teachers were already transferred. The transfer order was sent by Registered post and the petitioner did not receive the said order. Suppressing the same, the petitioner filed the present writ petition.

4. It is further stated in the counter affidavit that in G.O. Ms. No. 231 School Education Department dated 11.8.2010, under the Right of Children to Free and Compulsory Education Act, 2009' the pupil teacher ratio was specified in the schedule in respect of each school and the number of teachers in a school is fixed at 8. Therefore, the existing strength of 11 teachers cannot be allowed for the said school and as such, three teachers have become surplus. It is also stated that the school has got only 269 students and as per the staff fixation, the school was sanctioned only 8 teachers. The Headmaster of the school is reaching the age of superannuation only on 31.5.2012. Since the school is run by the CSI diocese, a corporate management, it is required to redeploy the excess staff in other schools and the same will be verified by the authorities, and therefore, the petitioner was deployed to the school at Periyaramapuram in R.K. Pet Range, which is within the jurisdiction of the CSI Diocese, Vellore.

5. The reliance placed on by the petitioner in terms of G.O. Ms. No. 525 is misconceived, because the said G.O. was superseded by the new orders passed by the Government. It is stated that the petitioner was transferred to the 3rd respondent school wherein there are two sanctioned posts, out of which, one regular post of Secondary Grade Assistant is vacant, and it is to fill up the said post, the petitioner was transferred and as such she cannot be said to be aggrieved by the orders passed by the authorities.

6. The contention of the petitioner is threefold. One is that she is suffering from medical problems, which requires retention at Walaja. The second contention is that the order was contrary to the order passed by the Full Bench of this Court reported in  : 2006 (5) CTC 385 Director of Elementary Education, Chennai-6 and Others v. Vigila and the third one is that G.O. Ms. No. 525, passed by the School Education department, fixing the staff strength, was not followed by the respondent.

7. The question of the petitioner suffering medical disability will not arise in this case, as it is not in the case of routine transfer from one school to other school. But in this case, the transfer came to be made only because of the want of students strength and thereby making some teachers become surplus to the requirement of the said school. The Full Bench judgment of this Court relied on by the petitioner in Vijila's case has no application, as in that case, the Full Bench in Paragraph No. 23(5) had given liberty to the Government to formulate appropriate norms in consideration with the observation made thereunder and therefore, it cannot be universally said that every elementary school, irrespective of the students strength, should have 5 teachers. The said argument also goes contrary to the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977, wherein, the State Government has stipulated that even in respect to minority schools there should be economic strength prescribed by the Education Department in all the standards.

8. As rightly contended by the respondent, G.O. Ms. No. 525 has no relevance in view of the subsequent G.O. Ms. No. 231 dated 11.8.2010, which prescribed the required strength of teachers in respect of the students available in a school, under 'the Right of Children to Free and Compulsory Education Act, 2009'.

9. In this case, the report of the District Elementary Educational Officer dated Nil. 9.2012, enclosed by the petitioner herself, clearly shows that the students strength even from July 2012 to August 2012 has gone down very low and as on 27.8.2012, though the enrolled strength was shown as 223 both for boys and girls, the actual attendance shows only 92 students in respect of both boys and girls. In fact, in some other classes, as per the students attendance there are only 16 students in class-3 and in class-5 there are again 21 students and in Class 4 there are 22 students. This only shows the sorry state of students strength. On that ground, the Government cannot be taxed to pay grant to teacher irrespective of whether there is students strength in the school or not. This Court will not find any irregularity in the order passed by the respondent. In the result, the writ petition is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is dismissed.