

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.A. No.824 of 2015, W.A. No.1651 of 2014 and W.P. No.33662 of
2014
M.P. Nos.1 of 2014 and 1 of 2015

Sir M.Ct. Muthaiah Chettiar Hr. Sec. School
Teaching and Non-Teaching Staff Association
represented by its President
Now at 23, Raja Annamalai Road
Purasaiwalkam
Chennai 600 084

Appellant in WA No.1651 of 2014/
Ist Respondent

vs.

- 1 Sir M.Ct. Muthaiah Chettiar Hr. Sec. School
represented by its Correspondent
23, Raja Annamalai Road
Purasawalkam, Chennai 600 084 ...Respondent/Writ Petitioner
- 2 The Government of Tamil Nadu
represented by its Secretary
Department of School Education
Fort St. George, Chennai 600 009
- 3 The Director of School Education
DPI Compound, College Road, Chennai 600 006
- 4 The Chief Educational Officer, Saidapet, Chennai 600 015
- 5 The District Education Officer
Chennai North, Chennai 600 008
- 6 M.Ct.M. Hr. Sec. School Staff Association
represented by its President
23 Raja Annamalai Road
Purasawalkam
Chennai 600 084

Respondents in W.A. No.1651 of
2014/1 to 4

(R6 impleaded as vide order dated
04.08.2015 made in M.P. No.1 of 2015)

- 1 The Government of Tamil Nadu
represented by its Secretary
Department of School Education
Fort St. George
Chennai 600 009
- 2 The Director of School Education
DPI Compound
College Road
Chennai 600 006
- 3 The Chief Educational Officer
Saidapet, Chennai 600 015
- 4 The District Educational Officer
Chennai North
Egmore, Chennai 600 008 Appellants in W.A. No.824 of
2015/Respondents

Vs.

- 1 Sir M.Ct. Muthiah Chettiar Boys Hr. Sec. School
represented by its Correspondent
23, Raja Annamalai Road
Purasaiwalkam
Chennai 600 084
- 2 Sir M.Ct. Muthaiah Chettiar Hr. Sec. School
Teaching and Non-Teaching Staff Association
No.13/1 Ganga Street
Rajaji Nagar, Villivakkam
Chennai 600 049 Respondents in W.A. No.824 of
2015/Petitioner in WP

Sir M.Ct. Muthiah Chettiar Hr. Secondary School
Teaching and Non-Teaching Staff Association
represented by its President
No.23, Raja Annamalai Road
Purasawalkam, Chennai 600 084 Petitioner in WP No.33662 of 2014

vs.

- 1 The Director of School Education
D.P.I. Compound
College Road, Chennai 600 006
- 2 The District Educational Officer
Education District (North Madras)
Egmore, Chennai 600 008

3 Sir. M.Ct. Muthiah Chettiar Hr. Sec. School
23 Raja Annamalai Road
Purasawalkam
Chennai 600 084
represented by its Correspondent

Respondents in WP
No.33662 of 2014

Prayer in W.A. No.1651 of 2014 & 824/2015:

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 13.11.2014 passed in W.P. No.23177 of 2013.

WP.NO.23177 of 2013:Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, calling for the records in proceeding Na. Ka. No.5569/A2/2011 dt 29.2.2012 issued by the 4th respondent and the consequent order of rejection of appeal in proceeding RC No. 1625/B2/2013 dt 28.6.2013 issued by the 3rd respondent and to quash the same.

Prayer in W.P. No.33662 of 2014:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to consider and dispose of the representation dated 19.11.2014 and directing the respondents to pass orders to constitute the school committee as per Rule 12 of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973.

For appellant in Mr. C. Johnson
W.A. No.1651 of 2014

For R1 in Mr. R. Yashod Vardhan,
Sr. Counsel
W.A. No.1651 of 2014 for Mr. T. Madhusudanan

For RR 2-5 in Mr.P.H. Arvind Pandian, Addl.
Adv. Gen.
W.A. No.1651 of 2014 assisted by Mr. K. Karthikeyan
Government Advocate (Education)

For R6 in Mr. M. Govindaraj
W.A. No.1651 of 2014

For appellants in Mr. P.H. Arvind Pandian,
Addl. Adv. Gen
W.A. No.824 of 2015 assisted by Mr. K. Karthikeyan
Government Advocate (Education)

For R1 in

W.A. No.824 of 2015

Mr. R. Yashod Vardhan,
Sr. Counsel
for Mr. T. Madhusudanan

For R2 in

W.A. No.824 of 2015

Mr. C. Johnson

For petitioner in

W.P. No.33662 of 2014

Mr. C. Johnson

For RR 1 & 2 in

W.P. No.33662 of 2014

Mr. P.H. Arvind Pandian,
Addl. Adv. General
assisted by Mr. K. Karthikeyan
Government Advocate (Education)

For R3 in

W.P. No.33662 of 2014

Mr. R. Yashod Vardhan, Sr. Counsel
for Mr. T. Madhusudanan

COMMON JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

With consent, the writ appeals and the writ petition are taken up for final disposal. Since both the writ appeals are directed against one and the same order passed in the writ petition, they are considered and decided by this common judgment.

2 Both the writ appeals emanate from the order dated 13 November 2014 passed by the learned Single Judge in W.P. No.23177 of 2013.

3 Impugning the correctness of the proceedings dated 29 February 2012 issued by the District Educational Officer, Chennai North, Chennai and the consequential order of rejection of appeal dated 28 June 2013 passed by the Chief Educational Officer, Saidapet, Chennai, the Management of M.Ct. Muthiah Chettiar Boys Higher Secondary School (for short "the Management") filed the writ petition being W.P.No.23177 of 2013. The learned Single Judge set aside the impugned orders and allowed the writ petitions, directing the District Educational Officer to release the staff grant and maintenance grant to the Management of the writ petitioner school. Feeling aggrieved by the said order, the Teaching and Non-Teaching Staff Association has preferred W.A. No.1651 of 2014 and aggrieved by the very same order, the State has also preferred W.A. No.824 of 2015.

4 The question that emerges for consideration in these writ appeals is as to whether the staff grant and maintenance

grant are payable directly to the teaching and non-teaching staff or to the Management under the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 (for short "the Rules, 1974").

5 During pendency of these writ appeals, on 04 August 2015, this Court directed the Director of School Education to examine the current state of affairs qua the relationship between the Management and the teaching and non-teaching staff. The Director of School Education, in the enquiry report dated 14 September 2015, has made the following observations:

"In these circumstances, taking into account of the students' welfare and future of the institution, which is having a rich heritage and cultural values and also to create smooth and conducive environment between the Management and teaching community for the healthy functioning of the institution, the direct payment system may be withdrawn and the administration may be handed over to the management, specifying the following conditions:

1 Both the Management and staff (teaching and non-teaching) should strive towards achieving peaceful and harmonious solutions to their grievances as already ordered by the Director of School Education vide proceedings R.C. No.102761W4/E3/2012 dated 25.10.2012.

2 Both the management and the staff should abide by the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 and periodical instructions/circulars issued by the Department of School Education authorities.

3 The teachers should not involve in activities that are detrimental to the interest of the students and the Management should not in turn vengeful eye towards the teachers in view of the past activities.

4 The Management should rectify the defects found in the infrastructure facilities of the school immediately, namely:-

I All the hindrance around the play ground should be removed and it should be opened for the students.

II Both the entrances should be kept open for access to the teachers, students as well s parents.

Sufficient fans, lighting facilities should be provided in all class rooms.

III Sufficient fans, lighting facilities should be provided in all class rooms.

IV Sufficient furniture (benches, desks, etc.) should be provided to all the class rooms.

V Adequate safe drinking water facilities should be provided to the teachers and students.

VI Sufficiently, clean and hygienically maintained toilet facilities should be provided to the teachers and students.

VII The campus should be maintained hygienically and proper drainage facilities should be arranged. (A.C. let out and toilet let out, etc.)

5. The school Management should never use the school premises for commercial purposes.

6. The Management should take immediate steps to solve the service benefits of the teachers and other staffs such as re-employment, promotions, regularisation of suspension periods and early settlement of terminal benefits in accordance with the relevant Act and the Rules, Government Orders and the instructions issued by the Educational authorities.

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7. The management should take immediate steps to form full fledged school committee in accordance with the relevant Act and Rules.

8. The Management should send a monthly report to the District Educational Officer, Chennai (North) regarding the affairs of the school taken place in the preceding month including any other issues in which the Management requires the instructions of the Department which could be subsequently relaxed based on satisfactory performance of the school management.

Under the said circumstances, it is humbly submitted that the Management is showing keenness to set right all the shortcomings experienced in the past and regulate the day-to-day affairs of the school and requirement of all its stake holders (teachers, non-teaching staff, students and parents) strictly as per the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 and extant rules, regulations and proceedings of the Director of School Education and other competent authorities of the Department.

It is also submitted that the Management is keeping all its options open to embrace all the teaching and non-teaching staff as part of M.Ct.M. family and felt that there is remote chance that the Management will resort any vengeful activities.

Further it is submitted that the present situation, does not warrant continuance of direct payment system."

6 Before proceeding with the enquiry report submitted by the Director of School Education, we are disposed to examine the fundamental facts of the dispute.

7 The Management preferred writ petitions earlier in W.P. Nos.4900 and 6036 of 2012. While W.P. No.4900 of 2012 was filed for a direction to the State Government and Director of School Education to take appropriate action to bring about amicable conciliation between the Management and the staff, W.P. No.6036 of 2012 was filed challenging the order dated 29 February 2012 passed by the District Educational Officer, whereby and whereunder, it was decided to sanction direct grant to the school staff, as a special case and for a direction that the right of the Management regarding the disbursement of payment be

restored to the Management in accordance with law.

8 The learned Single Judge, by a common order dated 16 August 2012, disposed of both the writ petitions holding as under:

"36. In the background of the above facts and in the light of the order passed in the second writ petition, setting aside the proceedings of the District Educational Officer, I am afraid that the institution is likely to suffer more litigation, if no pro-active action is initiated. Therefore, I am of the view that taking advantage of the relief sought in the main writ petition, W.P. No.4900 of 2012, appropriate directions could be issued to the respondents 2 and 3.

37. Accordingly, W.P. No.4900 of 2012 is ordered, directing the Director of School Education to conduct an inquiry into the affairs of the school, the manner in which the school is managed and administered and the manner in which the teaching and non-teaching staff perform and take appropriate action in accordance with the scheme of the Act and the Rules as I have indicated above, to keep both the staff and the management in check at least for a brief period, so that both sides come around and take steps to restore the past glory of the school. The Director of School Education is directed to complete the inquiry within a period of eight weeks and also pass suitable orders. In the meantime, the association of teaching and non-teaching staff is directed not to indulge in any precipitative action nor hold any demonstrations within the campus of the school, which would demoralise the students. No costs. Consequently, the connected MP is closed."

9 Thereagainst, the Teaching and Non-Teaching Staff Association filed a writ appeal being W.A. No.2107 of 2012. A Division Bench of this Court set aside the impugned order passed by the learned Single Judge and observed as under:

"6 x x x x x x x it is open to the first respondent to prefer appeal against the order of the District Educational Officer dated 29.02.2012 before the competent authority i.e., the Chief Educational Officer, as contemplated under Section 41 of the Act. It is made clear that this Court has not expressed any opinion on the merits of the contentions raised either in the writ petition or in the writ appeal by both the parties. There would be no order as to costs. Consequently, the connected Miscellaneous Petition is closed."

10 Thereagainst, a Special Leave Petition was preferred by the Management in S.L.P. (C) No.4306 of 2013, which was dismissed on 04 February 2013. An appeal was preferred by the Management before the Chief Educational Officer, Saidapet, Chennai against the order dated 29 February 2012 passed by the District Educational Officer, which was the subject matter in W.P. No.6036 of 2012 as well.

11 The Appellate Authority, viz., the Chief Educational Officer, by order dated 28 June 2013, rejected the appeal which was the subject matter in the instant writ petition being W.P. No.23177 of 2013.

12 We have considered the rival submissions of the learned counsel for the parties and perused the pleadings and documents appended thereto.

13 Rule 19 of the Rules, 1974 provides for payment of pay and allowances to teachers and other persons employed in private schools in a prescribed manner as provided in Annexure III thereto. Clause 2 of Annexure III deals with the said manner which clearly envisages submission of application for monthly staff grant by the Secretary of the school to the District Educational Officer, accompanied by a detailed statement of the staff employed from the first to the last day of the month, duly signed by the Headmaster and Secretary of the school. Thereafter, payment is to be made to the Secretary of the school for further disbursement to the staff members. It is further provided under Clause II of Annexure III that under special circumstances, the District Educational Officer concerned may make direct payment to the Headmaster of school or to the teachers of the school, in the event, disbursement of salary to the employees is not satisfactorily made on account of certain factors. Thus, to ensure regular payment to the staff, teaching as well as non-teaching, the Rules, 1974 provide for payment directly to the members of the staff.

14 In the case on hand, a situation arose, wherein, the District Educational Officer had to take a decision to make payment to the members of the staff directly, which was challenged by the Management before the Appellate Authority, as liberty was granted by the Division Bench of this Court in W.A. No.2107 of 2012. It appears that finding no improvement in the relationship between the Management and the staff and also not feeling satisfied with the action of the Management, the appeal was dismissed by the Appellate Authority, which was under assail in the instant writ petition.

15 The learned Single Judge, examining the facts of the case from all angles, came to the conclusion that payment can be

made to the Management for onward disbursement to the employees.

16 The disbursement of payment directly to the teachers and other staff members is permitted under special circumstances. It is for the District Educational Officer to monitor and take a decision in view of the prevailing facts in the state of affairs of the school. During pendency of the instant appeals, as directed by this Court, the Director of School Education, has submitted an enquiry report dated 14 September 2015, as aforestated.

17 The Management, in response to the aforestated enquiry report dated 14 September 2015 submitted by the Director of School Education, has filed an additional affidavit dated 05 October 2015 with an undertaking that all the conditions prescribed by the Director of School Education will be complied with strictly without fail. It is further stated therein that all the teachers be directed to extend full cooperation for the betterment of the school.

18 Thus, there is no reason not to accept the enquiry report dated 14 September 2015 filed by the Director of School Education.

19 Consequently, we find no reason to take a view contrary to the one taken by the learned Single Judge. The order of the learned Single Judge is unexceptionable, just and proper warranting no interference. We direct the Management as well as the Teaching and Non-Teaching Staff Association to adhere to the conditions prescribed by the Director of School Education in letter and spirit. In the event of infringement of any of the conditions by either party, the District Educational Officer as well as the Director of School Education, shall be at liberty to take appropriate action as per law.

20 Resultantly, both the writ appeals stand dismissed. Costs made easy. Connected Miscellaneous Petitions are closed.

21 W.P. No.33662 of 2014 is filed by the Teaching and Non-Teaching Staff Association for a direction to the Management to constitute a school committee as prescribed under Rule 12 of the Rules, 1974.

22 The learned counsel appearing for the third respondent-Management fairly submits that the School Committee is in order.

23 If the said Committee is not properly constituted as stipulated, the Management is directed to constitute a Committee, forthwith, in accord with Rule 12 of the Rules, 1974, to ensure proper functioning of the school. It is for the

District Educational Officer to ensure that all the provisions of the Rules, including Rule 12 of the Rules 1974, are complied with properly by the Management to have the benefit of staff grant and maintenance grant.

With the above direction and observation, the writ petition stands disposed of. Costs made easy.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Secretary
Department of School Education
Government of Tamil Nadu
Fort St. George
Chennai 600 009
- 2 The Director of School Education
DPI Compound
College Road
Chennai 600 006
- 3 The Chief Educational Officer
Saidapet, Chennai 600 015
- 4 The District Educational Officer
Chennai North
Egmore, Chennai 600 008

+2 cc to T.Madhusudhanan Advocate sr.65558
+1 cc to Government Pleader sr.66013

W.A. No.824 of 2015, W.A. No.1651 of 2015
and
W.P. No.33662 of 2014

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