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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2015

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition (MD) No.18308 of 2014
and MP(MD)No.1 of 2014

The Correspondent
St., Anne's Matriculation Higher
Secondary School
Ilayangudi 630 702,
Sivagangai District. ...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St., George,
Chennai 600 009.

2.The Director of School Education,
College Road,
Chennai 600 006.

3.The Director of Matriculation Schools,
College Road, Chennai 600 006.

4.The Inspector of Matriculation Schools,
Madurai, Madurai District. ...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Proceedings issued by the 3rd Respondent Director of Matriculation Schools in Oo. Mu. No. 985/Aa1/2014 dated 26.02.2014 quash the same and further direct the 1st Respondent to recognise forthwith the status of the petitioner School namely St. Anne's Matriculation Higher Secondary School Ilayankudi, Sivagangai District as a Christian Religious Minority Educational Institution.

For Petitioner : Mr.Isaac Mohanlal
For Respondents: Mr.V.Muruganandam,
Additional Government Pleader.

ORDER

Since the issue involved in this case is directly covered by the decision of this Court in favour of the petitioner, the main writ petition itself is taken up for final disposal.

2.The petitioner is aggrieved against the proceedings of the third respondent dated 26.02.2014 insofar as the same insisting upon the petitioner to produce community certificate of the individual members of the school committee for the purpose of considering their request for granting minority status to the petitioner school.

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3.The case of the petitioner is as follows:-

The petitioner school is one among the several recognised educational institutions owned and administered by St., Anne's Educational Society, Ilayankudi, Sivagangai District which is registered under the Tamil Nadu Societies Registration Act, 1975. The said society is formed by the Roman Catholic Congregation. The said society is running two educational institutions. Out of which the petitioner institution is a Matriculation Higher Secondary School. These institutions are functioning as minority educational institutions in terms of Article 30 (1) of the Constitution of India. The said society is the educational agency of the said educational institutions and the members of the society are all belonging to Roman Catholic order of Christianity. In order to get formal certification regarding its minority status, the petitioner school submitted an application on 17.01.2014 along with all necessary documents to the first respondent through proper channel namely, the second respondent. The petitioner filed documents along with application to show that the office bearers and the members of the society belonged to Christianity and Baptism Certificate issued by the Parish Priest was also filed. When that being the factual position, the third respondent passed the impugned order on 26.02.2014 calling upon the petitioner to produce community certificate of the individual members of the committee for the purpose of forwarding the application with the recommendation to the first respondent Government.

4.Learned counsel appearing for the petitioner submits that when already the relevant documents namely, Baptism Certificate issued by the Parish Priest has been produced in support of the minority status, there is no necessity for seeking production of community certificate from the Tahsildar to grant minority status by the Government. He further submitted that the very same issue was considered by this Court in W.P.No.12418 of 2014 etc., by an order dated 10.09.2014, this Court has observed that the authorities are not justified in seeking for production of community certificate for the purpose of considering the application seeking for minority status.

5.Per contra, Mr.V.Muruganandam, learned Additional Government Pleader submitted that it is for the petitioner to prove that the members of the society belongs to Christian minority religion and therefore, this Court can issue direction to the authorities to consider the application based on the documents furnished by the petitioner institution in support of their claim for minority status and the petitioner may be directed to produce community certificate as it only strengthen the claim of the petitioner.

6.I am unable to appreciate the contention raised by the learned Additional Government Pleader appearing for the respondents as the very same issue was already considered and decided against them by the learned single Judge in an order made in W.P.No.12418 of 2014 etc., dated 10.09.2014. The relevant paragraphs 20 and 21 of the said order is extracted hereunder:

> *"20.On the reliance placed upon the decision in P.A.Inamdar Vs. State of Maharashtra [(2005) 6 SCC 537)], it is to be pointed out that today, without even processing the application of the petitioner, the respondents cannot come to a conclusion that the twin objects are not satisfied. The original Society, has already got it registered under the Tamil Nadu Societies Registration Act, 1976. Under the provisions of*

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the Act, the Society is obliged to file forms periodically, indicating the details of the office bearers on whom the management of the society is vested. Therefore, the details about the persons who constitute the Managing Committee of the Society are always available with the Government, in a different department. So far, there is no allegation that any person belonging to a non minority, has been elected or at least has become a member of the Society in question. Therefore, the stand taken in the counter affidavit that community certificates have not been produced, cannot be accepted.

21.IN K.M.Benedict Crizal Vs. Secretary to Government (decided on 11.07.2007, by K.Chandru, J, in W.P(MD)No.9424 of 2006), the learned Judge rejected a very identical contention raised by the respondents. Therefore, I am of the view that the stand taken by the respondents either in the impugned order or in the counter affidavit cannot be sustained. Hence, W.P.No.22376 of 2014 is allowed, the impugned order is set aside and the respondents are directed to pass appropriate orders in accordance with law, within a period of eight weeks, taking into account the fact that the original educational agency, namely, the society registered under the Tamil Nadu Societies Registration Act has already been conferred with minority status and that they are also running several institutions. After the first respondent passes an order, the University shall take up the application and pass consequential orders. The other writ petitions are closed, in view of the fact that the last writ petition is for a larger relief and it has been disposed of as above. Consequently, connected M.Ps are closed".

7.In fact the learned Judge followed the earlier decision made by another single Judge of this Court made in W.P.No.9424 of 2006 dated 11.07.2007 for arriving at such a conclusion. Therefore, I am of the view that the respondents are not entitled to seek for production of community certificate for the purpose of considering the claim of the petitioner seeking for minority status.

8.Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondents to consider the claim of the petitioner seeking for minority status based on the documents already furnished by them and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To
1.The Secretary,
Government of Tamil Nadu
Department of School Education,
Fort St., George,
Chennai 600 009.

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4.The Inspector of Matriculation Schools,
Madurai, Madurai District.

+1CC to M/s.Issac Mohanlal, Advocate in SR.3136
+1CC to the Special Government Pleader in SR.2988

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