



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

Writ Petition (MD) No. 9453 of 2014

and

M.P (MD) No. 1 of 2014

The Manager & Correspondent,
Carpenter Street Middle School,
Gopalsamy Street,
Tuticorin - 628 001
Tuticorin 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 Elementary Education,
School Road,
Chennai - 600 006.

3. The District Elementary Educational Officer,
T.R Naidu Street,
Tuticorin,
Tuticorin District.

4. The Assistant Elementary Educational Officer,
Tuticorin (Urban), Tuticorin,
Tuticorin District.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order issued by the 1st respondent-State Government vide G.O.Ms.No.96 (School Education (Ne.Va.2) Department, dated 20.06.2013 and quash the same in so far as it restricts the minority status of the petitioner's School to a limited period of 5 years viz., 2013-2018 and pass such further or other orders.

For Petitioner : Mr.T.Cibi Chakraborty

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate

ORDER

The present Writ Petition is filed challenging the order issued by the first respondent in G.O.Ms.No.96, School Education Department, dated 20.06.2013 insofar as restricting the minority status of the petitioner's School for the limited period of five years only.



2. It is seen from the various orders passed in earlier round of litigations that the petitioner was fighting to get minority status from the year 2002 onwards. However, after a long time, the first respondent issued the impugned proceedings and conferred the minority status on the petitioner's School subject to three conditions, however, restricting such status only for a limited period of five years. The petitioner is aggrieved only against the restriction of the minority status for a period of five years alone.

3. The issue as to whether the minority status can be conferred only for a limited period, has been considered and decided by this Court on very many occasions holding that such restriction cannot be imposed. A Division Bench of this Court considered the said issue in its recent decision in **The Secretary, Jeyaraj Annapackiam College for Women (Autonomous) Vs. State of Tamil Nadu rep. by its Secretary and others** reported in (2013) Vol 8 MLJ 509, wherein at paragraph Nos.4, 5 and 6 it has been held as follows:-

"4. The issue as to whether the appellant / Society which was already declared by this Court as minority Society / Institution, which was granted minority declaration by the Government for a minimum period, has to be directed to approach the Government for continuing the minority status was considered by this Court by one of us (N.Paul Vasanthakumar, J.), in W.P.No.24606 of 2012 reported in 2012 (2) CWC 728 (The Secretary, Loyala College v. The State of Tamil Nadu). In the said judgment, a Division Bench judgment of this Court reported in (2001) 3 M.L.J. 433 (Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamingal, Medical, Educational and Charitable Trust, Salem v. State of Tamil Nadu), was followed. Paragraph-5 of the said judgment reported in (2001) 3 M.L.J. 433 runs thus:

"... the Government while considering the Application made by the Appellant, duly took into account the fact that, (i) all the Trustees belong to Ariya Vaisya Telugu speaking Chettiar only from the year 1981 till date; (ii) the Trust has not included any new member in the Trust so far; (iii) the Trust has also stated that the Management is a registered Charitable Trust and the Board of Management belong to Ariya Vaisya Telugu speaking Chettiar; (iv) the additional deed executed by the Trust reflects the main objective of subserving the interests of the said minority community; (v) the Founders-Trustees, namely, (a) Thiru. A.Shanmughasundram (b) Tmt.S.Annapoorani and (c) Thiru.Saravanan who became a major at that time, belong to Telugu speaking Ariya Vaisya Chettiar Community and their mother-tongue is Telugu. By the aforesaid order dated 27.10.1997, the Government after verification of the documents produced, issued orders in the name of the Governor declaring the Medical College run by the Appellant as a linguistic minority institution for the purpose of



Article 30(1) of the Constitution of India. In the face of the uncontroverted facts and circumstances brought on record, we are of the considered opinion that this is a fit case where the Appellant-Trust is entitled to its rights declared by the Government as a linguistic minority institution, as per G.O.Ms.No.532, dated 27.10.1997 and the Appellant will be eligible to continue to exercise its constitutional rights as recognised by the Government and the same is not liable to be effaced by the subsequent letter of the Government which is impugned in the Writ Petition out of which the present Writ Appeal arises. In conclusion, we hold that if any entity is once declared as minority entitling to the rights envisaged under Article 30 (1) of the Constitution of India, unless there is fundamental change of circumstances of suppression of facts, the Government has no power to take away that cherished Constitutional right which is a fundamental right and that too, by an ordinary letter without being preceded by a fair hearing in conformity with the principles of natural justice."

5.The said judgment was also followed by the subsequent decisions of this Court in 2004 WLR 202 and again in the decision reported in (2009) 6 CTC 579.

6.The reason given by the learned single Judge for distinguishing the said judgment is that the matter is pending before the Hon'ble Supreme Court regarding the issue of grant of minority status to linguistic minorities. It is relevant to note herein that the appellant College is a religious minority institution, viz. Christian religion. It may be noted that Christians are minorities not only throughout India but also in the State of Tamil Nadu. The same is also made clear in the Government Order issued in G.O.Ms.No.270, Higher Education (J1) Department, dated 17.06.1998. In paragraph 8(vi), it is stated that to decide whether an applicant is a minority or not based on religion or language, the total population of that minority in the State of Tamil Nadu shall be taken into consideration and not the population of that minority in any particular region where the educational institution is situated. Therefore, it is evident that the impugned order restricting minority status which was upheld by the learned single Judge is without noticing the said guidelines issued by the Government itself in G.O.Ms.No.270, Higher Education (J1) Department, dated 17.06.1998. It is also to be noted that the said Government Order, no where states that minority status can be given to a limited period. The Government is also not doubting the claim of minority status of the appellant-College. Hence the order restricting the period is without any rhyme or reason."



4. Following the above decision of the Division Bench, I hold that the first respondent is not justified in restricting the minority status to the petitioner only for a period of five years.

5. Accordingly, the Writ Petition is allowed and the impugned order insofar as the same restricting the period of minority status only for five years is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Elementary Education,
Chennai - 600 006.
- 3.The District Elementary Educational Officer,
T.R Naidu Street,
Tuticorin,
Tuticorin District.
- 4.The Assistant Elementary Educational Officer,
Tuticorin (Urban), Tuticorin,
Tuticorin District.

+1cc to Mr.Isaac Mohanlal,Advocate, SR.No.5534

W.P (MD) No.9453 of 2014
04.02.2015

ps

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