

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.11686 of 2015

and

MP.No.1 of 2015

Minor Miriam
represented by Court Guardians,
Uthama Asirvatha Udaiyar ... Petitioner

vs

- 1.The State of Tamil nadu
represented by its Secretary to Government
School Education Department,
Fort St. George, Chennai 600 009.
- 2.The District Chief Educational officer,
Nilgiris District.
- 3.The District Collector,
Nilgiris District.
- 4.The Hebron Schools Association Coonoor,
rep. by the Executive Council,
Lushington Hall, Ootacamund,
Nilgiris 643 001.
- 5.The Hebron School
rep. by its Principal,
Lushington Hall, Ootacamund,
Nilgiris - 643 001. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 14.03.2015 issued by the fifth respondent and quash the same and consequently, direct the fifth respondent to admit the petitioner in the 1st standard for the academic year 2015-16 in Hebroan School, Ootacamund, the Nilgiris.

For Petitioner : Mr.R.Anand
For R1 to R3 : Mr.M.Dig Vijaya Pandian,
Additional Government Pleader
For R4 and R5 : Mr.S.K.Rakhunathan

ORDER

The petitioner has come up with the present writ petition for a Certiorarified Mandamus, calling for the records relating to the order dated 14.03.2015 issued by the fifth respondent and quash the same and consequently directing the fifth respondent to admit him in the 1st standard for the academic year 2015-16 in Hebroan School, Ootacamund, the Nilgiris.

2. It is the case of the petitioner that she was born on 12.04.2010 to her natural parents namely Selvaraj and Raji and she was adopted by one Uthama Asirvatha Udaiyar and his wife Wiebke Kerstin Udaiyar, by order dated 8.9.2014 made in Guardian Original Petition No.64 of 2014 on the file of the Principal District Judge, Tanjore. Consequently, a birth certificate was obtained by including their names as the adoptive parents of the petitioner. Since the petitioner is aged about 5 years, her adoptive parents applied for admission in the 1st standard of the fifth respondent school for the academic year 2015-2016 on 11.12.2014. As there was no response, her parents went to the fifth respondent School and enquired about the stage of the application, for which, it was informed by the fifth respondent that the application of the petitioner was rejected by order dated 14.03.2015 on the ground that there is strict quota and they have already admitted the maximum number of students. Not being satisfied with the same, the present writ petition came to be filed.

3. Opposing the relief sought for in the writ petition, the respondents 4 and 5 have filed a detailed counter affidavit, stating interalia as follows:

(i)The fifth respondent, Hebron School is an European School and not affiliated to the Tamil Nadu State Board of Education or ICSE or CBSE and is functioning under University of Cambridge, UK and hence, the writ petition is not maintainable for want of jurisdiction.

(ii)The school follows only the British Pattern of Education as per the syllabus of the Cambridge University and has nothing to do with any of the educational bodies in India. Further, the administration of the school vests with the fourth respondent Association and the same is carried on as per the By-laws of the Association.

(iii)The fifth respondent school is a residential school which only admits boarders from Standard V. Since the petitioner is aged about 5 years, she is too young to join the school as a boarder.

(iv)A small percentage of students are admitted as day scholars and are reserved for families of staff or families, who reside permanently in the local area of Ootacamud. Whereas, the

family of the petitioner resides at Erode, which is long way from Ootacamud and is well outside the catchment area for day scholars.

(v)The number of day places is full and there is a long waiting list for admission to the school. When the petitioner applied for admission in December 2014, there were other applicants, who have been waiting much longer and in some cases, 2 to 3 years.

(vi)The fifth respondent school is a private international school and therefore, strict norms are followed for admission and therefore, the application of the petitioner was rejected, by order dated 14.03.2015.

(vii)the respondents 4 and 5 further denied the allegation made in the writ petition that their school was brought under the purview of the District Educational Officer, as per G.O.Ms.No.144 dated 18.09.2014 amending Rule 12 of the Tamil Nadu Right of Children for Free and Compulsory Education Rules, 2011.

By stating so, the respondents 4 and 5 prayed for dismissal of the writ petition.

4. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 3 and learned counsel for the respondents 4 and 5.

5. Keeping the submissions made on either side, this Court perused the documents placed before this court. I find that there is no legal ground made out by the petitioner to entertain this writ petition. More over, the materials available on record would reveal that the fifth respondent school is an European school and is not affiliated to the Tamil Nadu State Board of Education or ICSE or Central Board of Secondary Education. When that being the position, this Court is of the view that the writ petition itself is not maintainable and the same is liable to be dismissed in limine.

6.In view of the above, there is no need to go into other factual aspects. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
School Education Department,
Fort St. George, Chennai 600 009.

2.The District Chief Educational officer,
Nilgiris District.

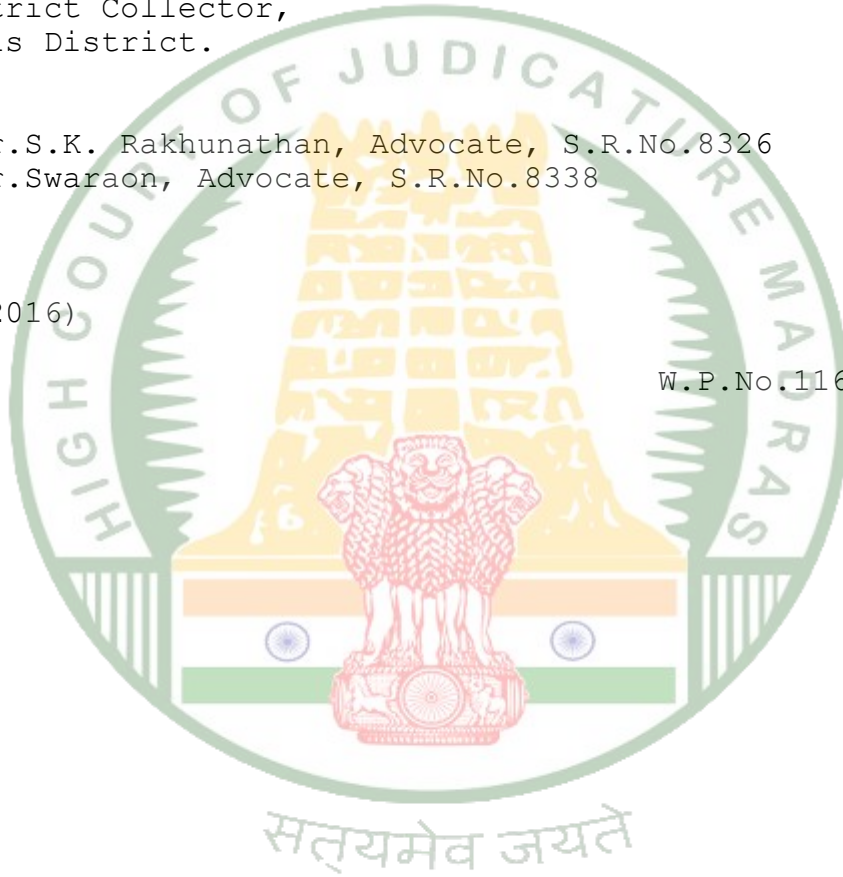
3.The District Collector,
Nilgiris District.

+1cc to Mr.S.K. Rakhunathan, Advocate, S.R.No.8326

+1cc to Mr.Swaraon, Advocate, S.R.No.8338

KJI (CO)
EU(18/03/2016)

W.P.No.11686 of 2015



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