

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.12.2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Contempt Petition Nos.2666 to 2670 of 2016

Cont.P.No.2666 of 2016

The Roman Catholic
Diocese of Kottar,
Rep. by its Diocesan Superintendent of Schools,
Rev.Fr.P.Suresh Kumar,
Roman Catholic Bishop's House,
Nagercoil, Kanyakumari District.

... Petitioner

..Vs..

1. Mrs.D.Sabitha,
The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. Thiru.S.Kannappan,
The Director of School Educational
(Secondary),
College Road, Chennai - 600 006.

3. Thiru.Muthupalanisamy,
The Joint Director of School Educational
(Secondary), College Road,
Chennai - 600 006.

4. Thiru.V.Jeyakumar,
The Chief Educational Officer,
Nagercoil - 629 001
Kanyakumari District.

5. Thiru.Mohanan
The District Educational Officer,
Kuzhithurai - 629 165,
Kanyakumari District.

.. Respondents

Prayer: Contempt Petitions filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for having committed contempt of Court for disobeying the orders dated 22.02.2010 in W.P.Nos.8850 of 1985 and 15.12.2015 in Contempt Petition No.2574 of 2015 dated 15.12.2015 of this Court under the provisions of the contempt of Courts Act.

Cont.P.No.2667 of 2016

The Roman Catholic
Diocese of Kottar,
Rep. by its Diocesan Superintendent of Schools,
Rev.Fr.S.M.Charles Borromeo
Roman Catholic Bishop's House,
Nagercoil, Kanyakumari District.

.. Petitioner

..Vs..

1. Mrs.D.Sabitha,
The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. Thiru.S.Kannappan,
The Director of School Educational
(Secondary),
College Road, Chennai - 600 006.

3. Thiru.Muthupalanisamy,
The Joint Director of School Educational
(Secondary), College Road,
Chennai - 600 006.

4. Thiru.V.Jeyakumar,
The Chief Educational Officer,
Nagercoil - 629 001
Kanyakumari District.

5. Thiru.Mohanan
The District Educational Officer,
Kuzhithurai - 629 165,
Kanyakumari District.

.. Respondents

Contempt of Courts Act, 1971, to punish the respondents for having committed contempt of Court for disobeying the orders dated 22.02.2010 in W.P.Nos.8851 of 1985 and 15.12.2015 in Contempt Petition No.2576 of 2015 dated 15.12.2015 of this Court under the provisions of the contempt of Courts Act.

Cont.P.No.2668 of 2016

The Roman Catholic
Diocese of Kottar,
Rep. by its Diocesan Superintendent of Schools,
Rev.Fr.S.M.Charles Borromeo
Roman Catholic Bishop's House,
Nagercoil, Kanyakumari District.

... Petitioner

..Vs..

1. Mrs.D.Sabitha,
The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. Thiru.S.Kannappan,
The Director of School Educational
(Secondary),
College Road, Chennai - 600 006.

3. Thiru.Muthupalanisamy,
The Joint Director of School Educational
(Secondary), College Road,
Chennai - 600 006.

4. Thiru.V.Jeyakumar,
The Chief Educational Officer,
Nagercoil - 629 001
Kanyakumari District.

5. Thiru.P.John Vijayan
The District Educational Officer,
Thuckalay - 629 175,
Kanyakumari District.

.. Respondents

Prayer: Contempt Petitions filed under Section 11 of the

Contempt of Courts Act, 1971, to punish the respondents for having committed contempt of Court for disobeying the orders dated 22.02.2010 in W.P.Nos.8852 of 1985 and 15.12.2015 in Contempt Petition No.2577 of 2015 dated 15.12.2015 of this Court under the provisions of the contempt of Courts Act.

Cont.P.No.2669 of 2016

The Roman Catholic
Diocese of Kottar,
Rep. by its Diocesan Superintendent of Schools,
Rev.Fr.S.M.Charles Borromeo
Roman Catholic Bishop's House,
Nagercoil, Kanyakumari District.

... Petitioner

..Vs..

1. Mrs.D.Sabitha,
The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. Thiru.S.Kannappan,
The Director of School Educational
(Secondary),
College Road, Chennai - 600 006.

3. Thiru.C.Selvaraj
The Joint Director of School Educational
(Secondary), College Road,
Chennai - 600 006.

4. Thiru.V.Jeyakumar,
The Chief Educational Officer,
Nagercoil - 629 001
Kanyakumari District.

5. Thiru.Mohanan
The District Educational Officer,
Kuzhithurai - 629 165,
Kanyakumari District.

.. Respondents

Prayer: Contempt Petitions filed under Section 11 of the

Contempt of Courts Act, 1971, to punish the respondents for having committed contempt of Court for disobeying the orders dated 22.02.2010 in W.P.Nos.8853 of 1985 and 15.12.2015 in Contempt Petition No.2578 of 2015 dated 15.12.2015 of this Court under the provisions of the contempt of Courts Act.

Cont.P.No.2670 of 2016

The Roman Catholic
Diocese of Kottar,
Rep. by its Diocesan Superintendent of Schools,
Rev.Fr.S.M.Charles Borromeo
Roman Catholic Bishop's House,
Nagercoil, Kanyakumari District.

... Petitioner

..Vs..

1. Mrs.D.Sabitha,
The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. Thiru.S.Kannappan,
The Director of School Educational
(Secondary),
College Road, Chennai - 600 006.

3. Thiru.Muthupalanisamy
The Joint Director of School Educational
(Secondary), College Road,
Chennai - 600 006.

4. Thiru.V.Jeyakumar,
The Chief Educational Officer,
Nagercoil - 629 001
Kanyakumari District.

5. Thiru.P.John Vijayan
The District Educational Officer,
Thuckalay - 629 175,
Kanyakumari District.

.. Respondents

Prayer: Contempt Petitions filed under Section 11 of the

Contempt of Courts Act, 1971, to punish the respondents for having committed contempt of Court for disobeying the orders dated 22.02.2010 in W.P.Nos.444 of 1986 and 15.12.2015 in Contempt Petition No.2575 of 2015 dated 15.12.2015 of this Court under the provisions of the contempt of Courts Act.

For Petitioner : Mr.P.Godson Swaminath
in all Cont.Ps.

For Respondents : Mr.K.V.Dhanapalan
in all Cont.Ps. Spl. Govt. Pleader

COMMON ORDER

Earlier, when the petitioners filed Contempt Petition Nos.2574 to 2578 of 2015, alleging non compliance of the order made in W.P.Nos.8850 to 8853 of 1985 and 444 of 1986 dated 22.02.2010, taking note of the submission of the learned Additional Advocate General that the proceedings of the Chief Educational Officer, Kanyakumari District in Rc.No.4286/B1/2010-2 dated 23.10.2015, issued to the concerned schools would be withdrawn and that the department would consider the case of the petitioners, with reference to the order passed in W.P.Nos.8850 to 8853 of 1985 and 444 of 1986 on 22.02.2010 and also the further submission of the learned Additional Advocate General that appropriate orders would be passed within four weeks from the date of receipt of a copy of that order, Contempt Petition Nos.2574 to 2578 of 2015, were closed.

2. Thereafter, the Chief Educational Officer, Kanyakumari District, has passed orders in R.C.No.4286/B1/2010-2 dated 16.02.2016. In all the instant contempt petitions similar orders have been passed and therefore, it is suffice to incorporate one such order.

**PROCEEDINGS OF THE CHIEF EDUCATIONAL OFFICER,
KANNIYAKUMARI**

Rc.No.4286/B1/2010-2 dated 16.02.2016

- Sub : School Education - Secondary Education - Kannyiakumari District - RC Diocese - St. Joseph's Primary School, Valanoor, W.P.No.8850/1985 filed by the Superintendent of the R.C. Schools for granting and from 1977 onwards - implementation of Judgment dated 22.02.2010 - revised order - reg.
- Ref : 1. Judgment dated 24.03.2008 of Hon'ble High Court of Madras in W.A.No.1329 of 1999 and etc.,
 2. G.O.Ms.No.476, Education (D1) Dept. Dated 08.05.1992.
 3. G.O.Ms.No.918 Education (D1) Dept. Dated 30.05.1998.
 4. Judgment dated 22.02.2010 in W.P.No.8850/1985 of Hon'ble High Court of Madras.
 5. G.O.Ms.No.131/School Education (B1) Dept. Dated 10.08.2006 Report of Hon'ble Justice K.Sampath Commission Inquiry report - Regarding.
 6. Judgement dated 15.12.2015 of Hon'ble High Court of Madras C.P.No.2574/2015
 7. The Proceedings of the Chief Educational Officer Reference No.4286/B1/2010-2 dated 23.10.2015.
 8. The Proceedings of the Chief Educational Officer Reference No.4286/B1/2010-2 dated 12.02.2016

In the Writ Petitions filed by the

management of the Roman Catholic Minority Schools, Kottar Dioceses, Kanniyakumari District, represented by the Superintendent of the Roman Catholic Schools, Kottar Dioceses, Kanniyakumari District, W.P.No.8850/1985, the Hon'ble Madras High Court has passed common order dated 22.02.2010, on complying the order mentioned above, as per the proceedings of the Chief Educational Officer, Kanniyakumari District, in reference 8 cited above, the proceedings of the Chief Educational Officer, Kanniyakumar District reference 7 issued earlier is cancelled and a revised order is issued now.

In the Writ Petitions filed by the management of the Roman Catholic Minority Schools regarding the sanction of teaching and non-teaching posts to their schools, the Hon'ble High Court has passed a common order on 24.03.2008 as follows:-

"29. For the aforesaid reasons, we allow the various writ petitions by giving the following directions:-

(i) The State of Tamilnadu and the other authorities concerned shall consider the application of each of the institution for grant-in-aid within a period of 16 weeks without being influenced by the fact that such institutions had been established without obtaining any prior permission and also by the fact that such institutions had given letter in writing indicating that after obtaining recognition they will not claim any grant-in-aid. However, while considering such application, the relevant facts such as the existence of necessary infrastructure, teacher-

student ratio and the eligibility of the concerned teacher to hold the post should be considered.

(ii) It is found that any particular institution is entitled to receive any aid, decision should be taken with regard to eligibility within a period of four months and should be communicated to the concerned institution.

(iii) If any institution is found eligible to receive such aid, necessary payment shall be made within a further period of four months from the date of such sanction.

(iv) The continued right of any institution to receive any aid is to be considered keeping in view the relevant G.O., applicable from time to time.

(v) Similarly, in respect of minority institutions, which were receiving aid in respect of some of the posts and were seeking for approval and payment of aid for any additional post, such question is required to be considered within a period of four months by keeping in view the teacher-pupil ratio applicable during any particular period.

(vi) If, on the other hand, any school or any post is found ineligible for sanction of grant such decision should be communicated to the concerned institution by giving brief reasons within a period of three weeks from the date of order of refusal."

Accordingly, the application received from

the petitioner in W.P.No.8850/1985 has been considered by the Department with reference to the above directions of the Hon'ble Court.

St. Joseph's Primary School, Valanur, Kanniyakumari District was started as Primary School during 1977-1978 and initial recognition was granted to the said Primary school from the date of opening of the school up to 1977-78. In view of the norms prescribed in G.O.Ms.No.250 dated 29.02.1964 St.Joseph's Primary School, Valanur, Kanniyakumari District was sanctioned two Secondary Grade Posts i.e. 1977-78 two secondary post from 1979-1980 by the Proceedings of the Chief Educational Officer, Kanniyakumari.

Sl.No.	Name of the Post	No. of Post	Post Sanction in G.O.Ms.No.402/Education Department dated 11.03.87
1	Secondary Grade Teacher	Four	

The above said four posts were given retrospective sanction for two years from the date of recognition i.e. from 01.06.1977-31.05.1979 as per the interim order dated 29.04.1986 issued in W.P.No.8850/1985 by the management of the school.

It has been provided in rule 6(1) of the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules 1977 that the Minority Schools may be paid grant subject to the orders and instructions issued by the Government from time to time.

Further as per the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules 1977 the institution should be provided with a

playground area of about 5 acres. On a perusal of the visit report, the petitioner's school did not have sufficient play ground area. It is clear that the petitioners school has not fulfilled the requirements to be provided for a primary school prescribed in statutory rules.

As per the DEO's proceedings K.Dis No.748/B3/2012 dated 15.02.2012 Fire and Safety measures are not up to the standard and updated. The recognition of the school is not periodically renewed and up to date.

The petitioner school did not have sufficient toilets facilities. It is clear that the petitioner's school has not fulfilled the requirements to be provided for a Primary school as prescribed in the Statutory Rules.

The Teacher Pupil ratio of the petitioner school, St.Joseph's Primary School, Valanur is not entitled to get additional posts. The staff fixation of 2015-2016 shows that there are only 138 pupils studying in this school and Six teaching posts are eligible as per staff fixation.

The government of Tamil Nadu, in various Government orders issued from time to time and the Honourable courts in various Court cases have clearly set out the norms for grant of recognition and aid. The welfare of the students the grant-in-aid was given to schools and the schools which do not fulfill the basic infrastructure facilities are not eligible for grant in aid.

However, posts were sanctioned to the

petitioner's school vide G.O.3rd cited with effect from 01.06.1991 following the revised norms prescribed in G.O.Ms.No.340, Education (D1) Department, Dated 01.04.1992 and both the minority and non-minority schools opened in 1987-88 and earlier were also given grant with effect from 01.06.1991 vide G.O.Ms.No.341, Education Dated 01.04.1992 following the revised norms.

In the above circumstances, though the St.Joseph's Primary School, Valanoor has not fulfilled the various basic infrastructure facilities as stated as above as prescribed in the Rules. The school was granted recognition with effect from 1983-1985 considering the welfare of the students of the school appearing for Fifth Standard Examination from the academic year 1981 - 1982.

According to the various Government Orders and the relevant rules as stated above and as the petitioner school has not fulfilled the norms as prescribed by the Hon'ble Justice Sampath Commission of inquiry report the request of the petitioner school to sanction aid from 1977 onwards cannot be complied with and the same is rejected.

Chief Educational Officer,
Kanniyakumari.

To
Superintendent of Schools,
Roman Catholic Diocese of Kottar,
Kanniyakumari District.

Copy to
The Correspondent,
St. Joseph's Primary School,
Vallanoor.

*Copy submitted to
The Director of School Education,
College Road, Chennai - 6.*

*Copy to
The District Elementary Educational Officer,
Kanniyakumari District.*

3. Though once again, contending inter alia that the subsequent orders, dated 16.05.2016 are contumacious and therefore, action under the Contempt of Courts Act should be initiated, the present petitions have been filed, this Court is not inclined to advert to the correctness of the orders in contempt proceedings. Therefore, instant Contempt Petitions are dismissed granting liberty to the petitioners to challenge the orders, in the manner known to law. No cost.

SD/-

JOINT REGISTRAR(OS)

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//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SM/03/01/2017

To

1. Mrs.D.Sabitha,
The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. Thiru.S.Kannappan,
The Director of School Educational
(Secondary),
College Road, Chennai - 600 006.

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The Joint Director of School Educational
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The Joint Director of School Educational
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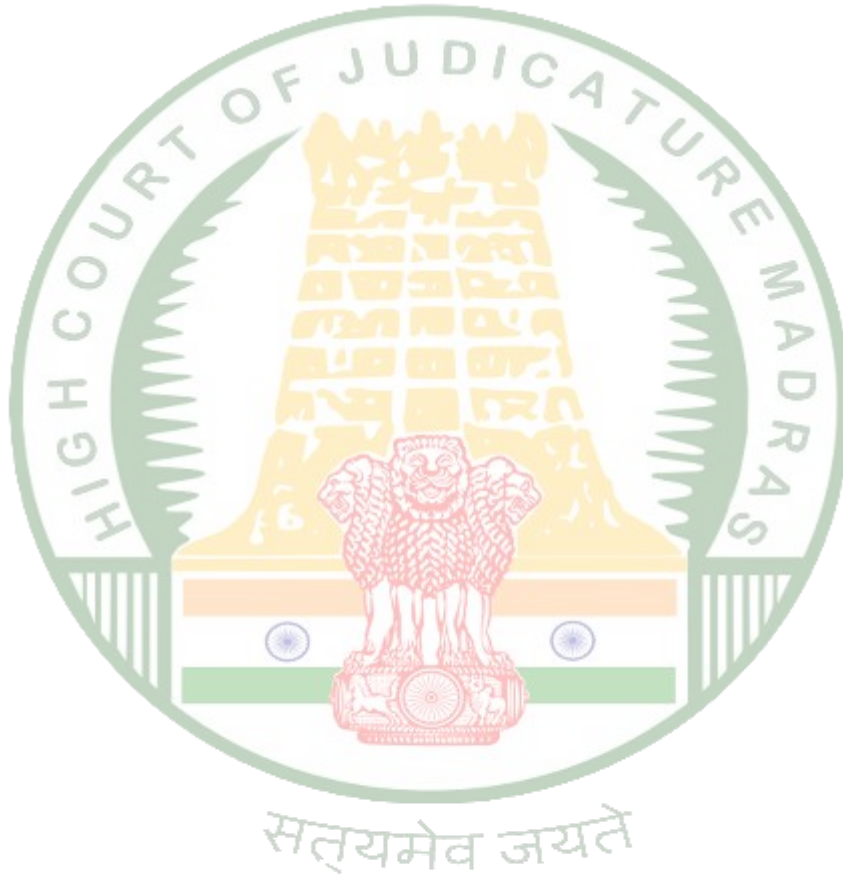
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The District Educational Officer,
Kuzhithurai - 629 165,
Kanyakumari District.

7. Thiru.P.John Vijayan
The District Educational Officer,
Thuckalay - 629 175,
Kanyakumari District.

One CC to M/s.R.Thamarai Selvan, Advocate,
S.R. No.152 04/2016

One CC to the Government Pleader,
SR.15307/2016



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