

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.34686 of 2015

Mr.V.Ramadurai

... Petitioner

Vs.

The Joint Director of School Education (Higher Secondary),
O/o the Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent to approve the petitioner as Secretary and Correspondent of the National Higher Secondary School, Mannargudi, by considering the proposal submitted by the petitioner on 29.04.2015 and handover the charges to the newly constituted Educational Agency National Higher Secondary School, Mannargudi.

For Petitioner : Mr.K.Annadurai

For respondent : Mrs.P.Rajalakshni,
Government Advocate

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the respondent to approve the petitioner as Secretary and Correspondent of the National Higher Secondary School, Mannargudi, by considering the proposal submitted by the petitioner on 29.04.2015 and handover the charges to the newly constituted Educational Agency, National Higher Secondary School, Mannargudi.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1.The National High School, Mannargudi (presently National Higher Secondary School) was founded by two eminent personalities in Mannargudi viz., Mr.V.Ramdurai Iyer and T.S.Singaravelu Udaiyar, during the year 1899 to cater the

educational needs of the town and surrounding villages. The families of the said two persons had equal shares in the Management as well as in the properties of the said School.

2-2. There was a dispute among the members of the Udayar's family which ended in a Partition Suit in O.S.No.22 of 1924 before the learned Principal Subordinate Court, Kumbakonam, wherein preliminary decree was passed on 25.10.1924 confirming the equal rights and interest over the management and the properties of the school, of the above said families. The final decree was passed by the learned Principal Subordinate Court, Kumbakonam on 26.09.1932, consisting of a scheme for managing the said school. As per the Scheme Decree, each family was entitled to manage the school by a rotation of ten years. In respect of the Udaiyar family, the scheme decree itself bifurcated the period of their term among their family members within ten years.

2-3. While so, one T.S.Swaminatha Udaiyar, the eldest male member of the Udaiyar family, continued as Secretary and Correspondent for the period from 1952 to 1988 with the consent of the Iyer's family and the members of the Udaiyar's family. Since he had been continuously holding the post of Secretary and Correspondent for a quiet long time, the Iyer family requested the said T.S.Swaminatha Udaiyar to handover the charges, but, he refused to do so. Hence, a dispute arose before the Scheme Court, which ended in a compromise before this Court in C.R.P.No.152 of 1988. Pursuant to the orders passed in the said CRP, the Scheme Court modified the scheme decree. The modified scheme decree declared the shares of each family ie., 19/30 shares belong to Iyer's family and 11/30 shares belongs to Udaiyar's family. As per the modified scheme decree, each family is entitled to have three years in rotation. The said T.S.Swaminatha Udaiyar started his tenure from 01.08.1987 as per modified scheme decree. The said T.S.Swaminatha Udaiyar expired in the year 1999 and a dispute arose within the family of Udaiyar as to who will be the eldest male member. One T.B.Singaravelu Udaiyar filed E.A.No.34 of 2001 on the file of the Principal Sub-Court, Kumbakonam, claiming that he was entitled to represent the Udaiyar family, in the management of the said School. Since the dispute was not settled, the District Educational Officer directed Mr.V.Srinivsaan (Iyer family) to continue as Secretary and Correspondent till the dispute was settled between the members of the Udaiyar family. Hence, from 16.10.2001 to 15.10.2004, Mr.V.Srinivasan continued as Secretary and Correspondent of the said school and nobody questioned the said order before the Court of law. Once again the Iyer family's turn started from 16.10.2004 and Mr.V.Srinivasan continued as Secretary till his death on 22.11.2005.

2-4.As the eldest male member, the petitioner wants to take over the charges as Secretary and Correspondent of the said school and forwarded the proposal to the respondent for his approval. On 09.05.2006, the respondent rejected the proposal on the ground that several persons were claiming right over the management and rejected the other persons claim also. While that be so, the respondent approved one T.S.Rajagopalan as Secretary and Correspondent of the said School. The said order of the respondent had been challenged before this Court and the this Court also set aside the order and remanded the matter to the respondent for fresh consideration. Since the respondent confirmed his earlier order, the petitioner had filed a writ petition in W.P.No.12478 of 2011. This Court by its order dated 11.08.2011 directed the Sub-Court, Kumbakonam to dispose of the I.A.No.34 of 2001 filed by one Mr.T.B.Ramanathan, so as to find out who is the eldest person in Udaiyar's family. Further, this Court directed the Sub-Court to find out the equity among the Udaiyar's Family and Iyer's Family in the said application. The Sub-Court, Kumbakonam disposed of the I.A.No.34 of 2001, declaring the said T.B.Ramanathan as the eldest male member of the Udaiyar's family and fixed the next turn of management to the Iyer's family. As against the same, the affected person filed C.R.P.No.2753 of 2012 before this Court and this Court dismissed the C.R.P.No.2753 of 2012 by its order dated 31.03.2015 thereby confirmed the order of the Scheme Court, against which no person filed any appeal.

2-5.As per the orders of the Court, in order to manage the said school, an educational agency was formed, consisting of the petitioner herein, one R.Viswanathan, T.B.Ramanathan, T.S.Rajagopalan and S.Thirumavalavan. Being the eldest male member, the petitioner represented the Iyer's family and he nominated his brother's son Mr.R.Viswanathan as Iyer Family nominee. So far as the Udaiyar's Family, one T.B.Ramanathan represented and he nominated one T.S.Balagurusamy as nominated member. All four members jointly on consensus nominated one Mr.S.Thirumavalavan, as 5th member of the Educational Agency.

2-6.As per the provisions of the Tamil Nadu Private School Regulation Act, every time, if there is any change in the management, the same shall be approved by the respondent. Accordingly, in order to obtain approval for the Secretary and Correspondentship, the petitioner filed an application before the Respondent on 29.04.2015 through post as well as in person. As per the the direction of the respondent, the petitioner has submitted another application to the District Educational Officer, Thiruvarur. The District Educational Officer, by his letter dated 05.05.2015 forwarded the said application to the Chief Educational Officer, Tiruvarur along with his recommendation. The Chief Educational Officer by his

letter dated 08.05.2015 forwarded the said proposals to the respondent. The respondent directed the petitioner to submit the Form-3 and Form-7 through the District Educational Officer, Thiruvarur. The petitioner has submitted the same along with his letter dated 24.08.2015, through the District Educational Authorities. The District Educational Officer forwarded the said papers to the Chief Educational Officer vide his letter dated 03.09.2015. The Chief Educational Officer forwarded the same to the respondent on 10.09.2015. The said proposal is still pending with the respondent.

2-7. It is the specific case of the petitioner that this Court while directing the Sub-Court to decide the issue, directed the respondent to be the custodian of the School till the issue is resolved between the parties. Now, the issue is resolved between the parties. The respondent has no other way except to handover the charges and approve the change in the management of the said school. Since the respondent wants to continue as caretaker of the said School without handing over the charges to the Educational Agency formed in accordance with the Scheme Court, the petitioner has filed the present writ petition before this Court for the reliefs as states supra.

3. The respondent has filed a detailed counter, inter alia, contending that claiming to be the eldest son of the Iyer Family, the petitioner by his letter dated 29.04.2015 has applied for approval of the educational agency headed by him so as to manage the subject School for three years, as per the order dated 07.12.2012 passed by the Principal Sub-Court, Kumbakonam in I.A.No.34/2001 in O.S.No.22/1924. The District Educational Officer as well as the Chief Educational Officer, Thiruvaru have deeply examined the petitioner's representation in accordance with the existing rules. The District Educational Officer, Thiruvarur has submitted the necessary proposals regarding the approval of the educational agency vide his letter R.C.No.6069/a1/2015, dated 19.11.2015. The issue with regard to the management of the subject school involves number of litigations and various courts' orders. The petitioner's request for approval of his proposal dated 29.04.2015 is under the active consideration of the respondent.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on record.

5. From a perusal of the materials available on record, it is seen that only pursuant to the direction given by this Court, the respondent herein was appointed as custodian of the School till the issue is resolved between the parties. Now, admittedly, the issue is resolved between the parties and even

the respondent has not denied the same. In fact, even according to the respondent, the proposal dated 29.04.2015 sent by the petitioner is under active consideration. Now, more than 11 months have lapsed from the date of submitting the proposal of the petitioner. When there is no dispute between the parties as on date, there is no impediment for the respondent to consider the proposal of the petitioner.

6.Hence, this Court directs the respondent to consider the petitioner's proposal dated 29.04.2015, with regard to approving the petitioner as Secretary and Correspondent of the subject school and handingover the charges to the newly constituted Educational Agency, and pass appropriate orders on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of.

No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssv

To

The Joint Director of School Education
(Higher Secondary),
O/o the Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

+1cc to Mr.K.Annadurai, Advocate, S.R.No.13911

+1cc to the Government Pleader, S.R.No.14152

W.P.No.34686 of 2015

GJ(CO)

CA(14/03/2016)