

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.6960 of 2016

Minor R.Gokula Krishna,
Rep. by his father
K.Rajagopalan

... Petitioner

Vs.

1. The Regional Manager &
Controller of Examinations,
CBSE Regional Office,
Chennai, 6th street,
Anna Nagar West,
Chennai - 600 040.

2. The Controller of Examinations,
Shiksha Kendra 2,
Community Center,
Preet Vihar,
Delhi - 110 092.

3. The Principal,
Pavithara School,
Madarahalli,
Bangalore,
Karnataka.

4. The Principal,
Air Force School JC Nagar,
Hebbal, Bangalore,
Karnataka.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of mandamus to direct the first and second respondents to permit the petitioner's minor son namely R.Gokula Krishna to write the painting exam on 05.03.2016 and mathematics exam on 19.03.2016 after sun set (i.e.) at 6. p.m. on the same day at exam center Air Force School, J.C.Nagar, Hebbal, Bangalore, Karnataka.

For Petitioner	:	Mr.L.Chandrakumar for V. Tamilarasan
For respondents	:	Mr.G.Nagarajan, for R1 and R2

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2. The petitioner has come forward with the present Writ of mandamus directing the first and second respondents to permit the petitioner's minor son, namely, R.Gokula Krishna to write the painting exam on 05.03.2016 and mathematics exam on 19.03.2016 after sun set (i.e.) at 6. p.m. on the same day at exam center Air Force School, J.C.Nagar, Hebbal, Bangalore, Karnataka.

3. The petitioner's son, namely, R.Gokul Krishna is studying 12th standard at Pavithra School, Medarahalli, Bangalore under the Central Board of Secondary Education stream in Bangalore, under the control of the first respondent. The petitioner belongs to Christian religion, which is categorised as seventh day adventists. According to the petitioner's faith, as mentioned in the Holy Bible, they will not do any personal work between Friday sunset and Saturday Sunset. Now, the first respondent had proposed to conduct annual examination all over south region and as per the first respondent time table, painting exam falls on Saturday March (i.e.) on 05.03.2016 and mathematics exam falls on 19.03.2016 and all exams commence from 10.30 a.m to 1.30 p.m.

4. While admitting the petitioner's son, he particularly verified with Regional office as well as school by posing a specific question that if any exam falls in Saturday in March month, his son could not able to do any work between Friday sunset to Saturday sunset and they assured stating that they are not going to conduct any exam on Saturday. But, now, the first respondent has fixed the painting exam on Saturday March (i.e.) on 05.03.2016 and mathematics exam falls on 19.03.2016 and due to the same, his son could not concentrate the exams. The petitioner sent mail to the authorities explaining the situation and also given representation to the respondents, but, the respondents had not considered the request of the petitioner till date. Hence, the petitioner filed the present writ petition before this Court.

5. Heard the submissions of learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 and 2.

6. The learned counsel appearing for the respondents vehemently opposed to allow the prayer stating that it is incorrect to state that at the time of admission he has verified with the first respondent and he posed a question that his son cannot write the examination if it falls on Saturday and the

second respondent is assured to the petitioner stating that they are not going to conduct any exam on Saturday. The said statement is nothing, but a self serving statement of the petitioner. The manner of conducting examination is a subject matter of the secular nature and hence, no provision available under Article 25 to conduct examination on any particular day simply on the ground that it would militate against the provisions of Article 25 and thus sought for dismissal of the writ petition.

7. When the matter was taken up, the learned counsel for the petitioner by relying upon a judgment of the Kerala High Court reported in 2008 (2) KLJ 216 stating that in similar circumstances, the Kerala High Court has allowed the Writ Petition as follows:

"Therefore, this is not a case where the petitioners 1 and 2 who are in the threshold of their life and appearing for, probably, the first public examination in their life, should be deferred to go for the SAY examination. Justice on the facts and circumstances is abundantly clear that wisdom of Government withdrawing Ex.P.2 should operate only from the next year. It is, hence, so ordered and it is directed that the respondents shall take necessary steps to ensure that Ex.P2 is given effect to in the matter of conducting examinations so far as the petitioners are concerned."

8. The learned counsel for the respondents submitted that the said judgment is based on a Government Order passed by the Kerala Government, but the said Government Order was subsequently withdrawn by the Kerala Government. Therefore, the said judgment is not applicable to the facts of the present case.

9. The learned counsel for the petitioner has submitted that atleast, a direction could be given to consider his representation pending with the respondents.

10. This Court, without going to the merits of the claim of the petitioner, directs the first respondent to dispose the representation of the petitioner within a period of two days from the date of receipt of a copy of this order.

11. This Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp
To

1. The Regional Manager & Controller of Examinations,
CBSE Regional Office,
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+ 1 cc to MR.V. Tamilarsan, Advocate Sr.13657

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AD(CO)
Eu 4.03.16

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