



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2016

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

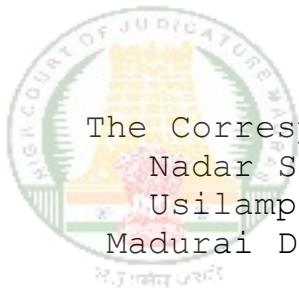
W.A. [MD].Nos.183 to 188 of 2016
and
C.M.P. (MD) .Nos.929 to 939 of 2016

W.A. (MD) .No.183 of 2016

- 1.The State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai -9.
- 2.The Director of School Education,
O/o. The Director of School Education Office,
College Road, Chennai.
- 3.The Chief Educational Officer,
O/o.the Chief Educational Office,
Thallakulam, Madurai,
Madurai District.
- 4.The District Educational Officer,
O/o.the District Educational Office,
Near Government Higher Secondary
School, Usilampatti,
Madurai District. .. Appellants/Respondents 1 to 4 /
Respondents 1 to 4

Vs.

- | | |
|------------------|---|
| E.Manimuthu | .. 1st respondent/Petitioner/Petitioner
in WA (MD) No.183/16 |
| K.Kavitha | .. 1 st Respondent in WA (MD) 184/16/
Petitioner / Petitioner |
| A.Chandra | .. 1 st Respondent in WA (MD) 185/16/
Petitioner / Petitioner |
| J.Karmega Kannan | .. 1 st Respondent in WA (MD) 186/16/
Petitioner / Petitioner |
| P.Manoharan | .. 1 st Respondent in WA (MD) 187/16/
Petitioner / Petitioner |
| V.Chellapandian | .. 1 st Respondent in WA (MD) 188/16/
Petitioner / Petitioner |



The Correspondent,
Nadar Saraswathi Higher Secondary School,
Usilampatti,
Madurai District

.. 2nd Respondent/5th Respondent/
5th Respondent
in all the petitions

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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, against the interim order dated 15.12.2015, passed in M.P.(MD). No.2 of 2015 in W.P.(MD).No.22514 to 22519 of 2015, by a learned Single Judge of this Court.

For Appellants : Mr.V.R.Shanmuganathan,
Special Government Pleader

For 1st respondent : Mr.M.Ajmal Khan,
Senior Counsel for
M/s.Ajmal Associates

For 2nd respondent : Mr.Vijayachandran

COMMON JUDGMENT

[Judgment of the Court was made by **R.SUBBIAH, J.**]

These Appeals have been filed as against the common order, dated 15.12.2015, made in M.P.(MD).Nos.2, 2, 2, 2, 2 & 2 of 2015 in W.P.(MD).Nos.22514 to 22519 of 2015, whereby and whereunder this Court directed the 4th appellant herein to give temporary approval to the first respondent in all the appeals, who were appointed as Post Graduate Assistants and B.T. Assistant, as the case may be.

2.In the year 2011, the first respondents in W.A.(MD).Nos.183, 184, 185, 186 and 188 of 2015 were appointed as P.G. Assistants and the first respondent in W.A.(MD).No.187 of 2015 was appointed as B.T. Assistant by the Correspondent of the second respondent school, whose Correspondent-ship was approved by the fourth respondent - the District Educational Officer on 10.02.2011. In that situation, the learned Single Judge of this Court directed the District Educational Officer to give a temporary approval to the first respondents herein from the date of their appointment pending disposal of the writ petitions. Aggrieved by the said interim order, the State has come up with these appeals.

3.These appeals were filed by the State on the ground that though the second respondent obtained the judgment and decree to the effect that it is a religious denomination in O.S.No.1682 of 1981, which was, later on, confirmed in A.S.No.120 of 1998 and S.A.No.883 of 1999, no such recognition as on date has been



given by the Education Department. Hence, the interim order granted by the learned Single Judge is liable to be set aside.

4. Per contra, the learned senior counsel appearing for the first respondents submitted that the second respondent school is an aided minority institution and that the civil Court has also declared the second respondent school as a minority institution in O.S.No.1682 of 1981 and the same was also subsequently confirmed in A.S.No.120 of 1985 and in S.A.No.883 of 1999. In view of the above declaration by the competent Civil Court, the second respondent school need not get an order from the Government as to the minority status. In this regard, the learned senior counsel appearing for the first respondent relied on the decision of a Division Bench of this Court in **the Secretary, D.G.Vaishnav College Arumbakkam Chennai and another Vs. DR.T.Venkataraman Reader and Head, Post Graduate and Research, Depart of Chemistry, K.G.Vaishnav College, Chennai and three others**, reported in 2001 (4) CTC 641, wherein the Division Bench of this Court has held as follows;

"The appellant in W.A.No.2387 of 2001 has been granted a minority status by a declaration granted by a decree dated 19.12.1988 by the Court of the Principal District Judge, Madras in A.S.No.275 of 1987. It is not disputed that the said decree had become final. As on date, the said decree ha not been nullified. But, Mr.P.Jyothimani, learned counsel for the first respondent, submits that in view of G.O.Ms.No.270, dated 17.06.1998, the decree, which has been granted on 19.02.1988 had become inoperative. Prima facie, we are unable to agree with the said submission as the Government has bene a party and suffered a decree on 19.02.1988 and the said decree having become final, the Government is bound by the same unless there is a specific legislation that too, if it is not an affront to the above decree granted by the judicial authority."

5. In view of the above declaration by the Civil Court that the second respondent school is a minority institution, according to the first respondent, the 2nd respondent school is not required to follow the procedure contemplated under Rule 15(4) of the Tamil Nadu Recognized Private School (Regulation) Rules. In this regard, the learned senior counsel for the first respondents relied on the decision of the another Division Bench of this Court in **Eka Ratchagar Sabai Higher Secondary School, Tuticorin and others Vs. K.Sumathi and another** reported in (2008) 1 MLJ 322, which reads as follows;

"In the light of the observations made by the



Supreme Court in **Secy., Malankara Syiran Catholic College Vs. J. Jose (2007) 1 SCC 386**, the provisions which lay down qualification for appointment of teachers are obviously required to be followed; whereas the procedure contemplated in Rule 15(4) of the Rules severely constricting the scope of the discretion of the management in appointment of teachers and confining the same to a particular source would be violative of Article 30(1). Therefore,, such provisions are not required to be followed by the minority institutions. In view of the above, this Court cannot agree with the view expressed by the learned Single Judge under the impugned judgment and such decision is liable to be overturned."

Thus, the learned senior counsel appearing for the first respondents submitted that the interim order passed by the learned Single Judge of this Court need not be interfered with.

6. It is an admitted fact that the second respondent school has been declared as a minority institution by the competent Civil Court and the said decision has become final and the same is binding upon the State Government. The appointment of the first respondents was also made by the Correspondent, whose correspondent-ship was already approved by the fourth respondent. Thus, *prima facie* satisfied with the facts and circumstances of the case, the learned Single Judge has granted the interim order. We do not find any infirmity or illegality in the interim order granted by the learned Single Judge. Hence, all these appeals are liable to be dismissed and accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

gcg

To

1.The Secretary to Government,
School Education Department,
Secretariat, Chennai -9.

2.The Director of School Education,
O/o. The Director of School Education Office,
College Road, Chennai.



3.The Chief Educational Officer,
O/o.the Chief Educational Office,
Thallakulam, Madurai,
Madurai District.

4.The District Educational Officer,
O/o.the District Educational Office,
Near Government Higher Secondary
School, Usilampatti,
Madurai District.
Sivagangai.

+7cc to M/S AJMAL ASSOCIATES Advocate Sr.No. 83028

+1cc to Spl.Government Pleader Sr.No. 83607

JAM/10.01.2017/KM / SAR 3/5P-13C

Common Judgment made in
W.A.[MD].Nos.183 to 188 of 2016
Dated: 22.12.2016