



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) Nos.946 to 950 of 2016

& C.M.P(MD)No.5687 of 2016 in W.A.(MD)No.946 of 2016
C.M.P(MD)Nos.5688 & 5689 of 2016 in W.A.(MD)No.947 of 2016
C.M.P(MD)Nos.5690 & 5691 of 2016 in W.A.(MD)No.948 of 2016
C.M.P(MD)Nos.5692 & 5693 of 2016 in W.A.(MD)No.949 of 2016
C.M.P(MD)Nos.5694 & 5695 of 2016 in W.A.(MD)No.950 of 2016

Writ Appeal (MD) No.946 of 2016

1.The Director,
Directorate of Government Examinations,
DPI Campus, College Road,
Chennai-600 006.

2.The Regional Deputy Director,
Regional Deputy Director Office,
Government Examinations,
Thiruchirapalli-1.

...Appellants/Respondents 1 & 2/
Respondents 1 & 2

-Vs-.

1.Minor S.Yashwanthini
Rep.through her Natural Guardian/
Father S.Suthakar ... Respondent/Petitioner/Writ Petitioner

2.The Principal,
Sowdambikka Matric Boys Higher Secondary School,
2-C, Park Street,
Thuaiyur-621 010,
Trichy District.

..Respondent/3rd Respondent/3rd Respondent

Writ Appeal (MD) No.947 of 2016

1.The Director,
Directorate of Government Examinations,
DPI Campus, College Road,
Chennai-600 006.

2.The Regional Deputy Director,
Regional Deputy Director Office,
Government Examinations,
Thiruchirapalli-1.

...Appellants/Respondents 1 & 2/
Respondents 1 & 2

-Vs-.



1.Minor P.Adhitya,
Rep.through her Natural Mother
P.Ezhilvizhi

... Respondent/Petitioner/Writ Petitioner

2.The Principal,
Sowdambikka Matric Boys Higher Secondary School,
2-C, Park Street,
Thuaiyur-621 010,
Trichy District.

..Respondent/3rd Respondent/3rd Respondent

Writ Appeal (MD) No.948 of 2016

1.The Director,
Directorate of Government Examinations,
DPI Campus, College Road,
Chennai-600 006.

2.The Regional Deputy Director,
Regional Deputy Director Office,
Government Examinations,
Thiruchirapalli-1.

...Appellants/Respondents 1 & 2/
Respondents 1 & 2

-Vs-.

1.Minor M.Deepan
Rep.through her Natural Guardian/
Father N.Manimaran

... Respondent/Petitioner/Writ Petitioner

2.The Principal,
Sowdambikka Matric Boys Higher Secondary School,
2-C, Park Street,
Thuaiyur-621 010,
Trichy District.

..Respondent/3rd Respondent/3rd Respondent

Writ Appeal (MD) No.949 of 2016

1.The Director,
Directorate of Government Examinations,
DPI Campus, College Road,
Chennai-600 006.

2.The Regional Deputy Director,
Regional Deputy Director Office,
Government Examinations,
Thiruchirapalli-1.

...Appellants/Respondents 1 & 2/
Respondents 1 & 2

-Vs-.

1.Minor M.M.Deepak
Rep.through her Natural Guardian/
Father N.Mathiarasu

... Respondent/Petitioner/Writ Petitioner



2.The Principal,
Sowdambikka Matric Boys Higher Secondary School,
2-C, Park Street,
Thuaiyur-621 010,
Trichy District.

..Respondent/3rd Respondent/3rd Respondent

Writ Appeal (MD) No.950 of 2016

1.The Director,
Directorate of Government Examinations,
DPI Campus, College Road,
Chennai-600 006.

2.The Regional Deputy Director,
Regional Deputy Director Office,
Government Examinations,
Thiruchirapalli-1.

...Appellants/Respondents 1 & 2/
Respondents 1 & 2

-Vs-.

1.Minor B.Naveen Kumar,
Rep.through her Natural Guardian/ Mother
B.Madhavi

...Respondent/Petitioner/Writ Petitioner

2.The Principal,
Sowdambikka Matric Boys Higher Secondary School,
2-C, Park Street,
Thuaiyur-621 010,
Trichy District.

..Respondent/3rd Respondent/3rd Respondent

Appeals filed under Clause 15 of Letters Patent praying to set aside the order dated 26.05.2016 made in W.P(MD)Nos.9626, 9629, 9630, 9628 and 9627 of 2016 respectively.

Common Prayer in WP(MD)Nos.9626, 9629, 9630, 9628 and 9627 of 2016 respectively:

To issue a Writ of Certiorari to call for the records relating to the impugned order bearing Na.Ka.No.003413/E4/2016 respectively dated 13.05.2016 and quash the same.

For Appellants : Mr.VR.Shanmuganathan
in all WAs Special Government Pleader.

For Respondent : Mr.G.R.Swaminathan for R1
in all Was

COMMON JUDGMENT

(Judgment of the Court was delivered
by NOOTY.RAMAMOOTHANA RAO,J)

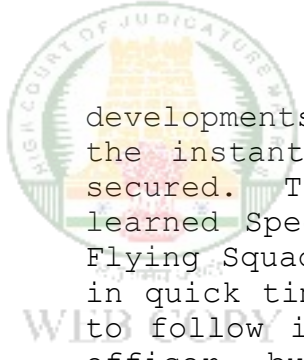
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These appeals are preferred by the Director of Government Examinations and its Regional Deputy Director at Thiruchirapalli, calling in question the sustainability of interlocutory order passed by the learned Single Judge, pending writ petition.

2. The facts, fortunately, lie in a very narrow campus. The State was conducting 12th Standard Public Examinations for the academic session 2015-16 on 18th March 2016. When the examination was in progress, it is the case of the appellants that the Flying Squad constituted for prevention of malpractice has visited one of the Examination Centres at Trichy Cantonment area and the member of the Flying Squad has found certain students carrying and in possession of certain incriminating study materials with them. Therefore, he reported the event as malpractice in the examination which, ultimately resulted in, the impugned order passed on 13th May 2016 by the Regional Director/second respondent appellant herein, debarring the writ petitioners-students from appearing for the supplementary examination to be conducted in October 2016 and March 2017. In other words, the student concerned has been ordered to be prevented from appearing for the Examination of March 2017 also. As a natural corollary, the results of the rest of the examinations attended by the students were also cancelled. That gave rise to the institution of the writ petitions by the respective students.

3. The common ground of attack is that for extraneous reasons and considerations unconnected with the merit of the matter, the students have been submitted to hostile treatment. The students have specifically asserted in the reply to the show-cause notice that they have not carried with them any study or incriminating materials relating to the Examination in question. When they have not carried any incriminating materials into the Examination Hall, the question of its recovery by the Flying Squad would not arise. This apart, it is pointed out that in terms of guidelines framed, as to how the cases of malpractice in Examination have to be handled, it is an essential requirement that the student should be stopped forthwith to proceed any further to write examination. Even if there are good reasons to the students to be allowed to complete the Examination, the Invigilator of the Hall in which, the students concerned were taking Examination, was required to make a statement with regard to the recovery of incriminating materials from the students concerned in the Hall.

4. According to the learned Counsel for the petitioner/students, no such statement has been recorded from the Invigilator of the Hall where the students were taking the Examination. Further, a Register was required to be maintained in every Examination Centre where entries have to be made by using English Capital Letter 'M' indicating the indulgence in malpractice by the student concerned. No such entry was found in the Register relating to the Examination Centre. The Chief Invigilator of the Examination Centre was also required to be appraised of all the

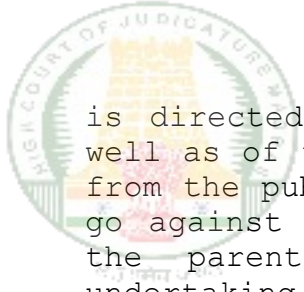


developments and he was supposed to make his spontaneous statement. In the instant case, no such statement of the Chief Invigilator has been secured. Taking into account over all view of these lacunae, though the learned Special Government Pleader tried to explain, by saying that the Flying Squad members, who are in a hurry to complete their vigilance work in quick time, have not followed the procedure immediately, but preferred to follow it by reporting the matter over telephone to the next higher officer, but nonetheless, we cannot agree that in spite of procedural violations, the students concerned should suffer the penalty.

5. Public examinations for 10th and 12th Standards, occupy yet another milestones in the academic progression of students. Therefore, the State is under an obligation to ensure that the examinations are not only conducted properly but they should also be free from malpractice. The State cannot tolerate even a single instance of indulgence in unfair practice with a view to tilt the result in favour of the indulger. Therefore, various measures have been adopted not only in conducting the Examination efficiently, but also with a view to protect it's integrity. If an examination is conducted without maintaining integrity, the very purpose of conducting Examinations itself would be lost. Whatever, might be the anxiety of the State and its commitment to weed out unfair means to secure ultimately faithful result of students, but nonetheless it should be conscious that fundamental principle relating to public law requires adherence to the broad head of 'principles of natural justice'. If a student, even unintentionally, carries any study material into an Examination Hall, care should be taken by the Invigilators and those who have been tasked with the assignment of prevention of malpractice, to adhere to the principles of natural justice, in the process of proceeding against such a student. Since no entry has been found made in the Register maintained at the Centre, indicating indulgence of malpractices by the student concerned and also in view of the fact that the students concerned, were allowed to complete the examination on 18th March 2016 and also in view of the fact that the statement of the Invigilator of the Hall concerned has not been recorded, immediately, upon detection of mal-practice and in view of the further fact that statements from the students concerned have also not been obtained, we feel that there is much force in the case of the students.

6. In such circumstances, balance of convenience has to be assessed while granting any interim relief. Imagine a case, where the students succeed in the writ petition after couple of years, the time lost in the process cannot be regained by him ever. After all, time and tide wait for none. Let us take the converse case where the students lose in this writ petition that too after couple of years, and if their result is liable to be cancelled, they can still be prevented, successfully from deriving any advantage therefrom. After all, completion of 12th standard is not the end of their studies, at least, insofar as a vast majority of the student community is concerned.

7. In the backdrop of the submission of the learned Special Government Pleader, we find that the balance of convenience does not lie in favour of the appellant, but would lie heavily in favour of the students. Therefore, we are of the view that the results of the students concerned should be declared, but however, to ensure that no equity is to be claimed the respective student, each of the writ petitioners/students



is directed to file an affidavit of undertaking of himself/herself as well as of the parents/guardian that no equity will be claimed or derived from the publication of such results, if the result of the writ petitions go against those students. We grant one week time to the students and the parents/guardian of the students to file such affidavit of undertaking before this Court. Because, the writ petitions are still pending, it would be appropriate to secure the said undertaking from the students concerned.

8. Accordingly, these writ appeals are disposed of. No costs. Consequently, connected Miscellaneous petitions are also closed.

Sd/

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.

TO

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- 3.The Regional Deputy Director,
Regional Deputy Director Office,
Government Examinations,
Thiruchirapalli-1.

+5CC to M/S.T.Antony Arulraj, Advocate, SR.No. 30943
+1CC to the Special Government Pleader, SR.No.31170

Writ Appeal (MD) Nos.946 to 950 of 2016
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