



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P. (MD) No.10516 of 2016

and

W.M.P. (MD) .No.8198 of 2016

M.Mahendran

...Petitioner

Vs.

1. The District Collector,
Thoothukudi,
Thoothukudi District.
2. The Chief Education Officer,
E.V.Road, C.V.School Campus,
Thoothukudi.
3. The District Education Officer,
E.V.Road, C.V.School Campus,
Thoothukudi.
4. The Principal,
Sakthi Vinayagar Hindu Vidyalaya,
Chidambara Nagar,
Thoothukudi 628 008.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the fourth respondent to permit the petitioner's son viz., M.Madhan Kumar to continue his education in the fourth respondent in XI standard.

For Petitioner : Mr.G.Prabhu Rajadurai
For R1 to R3 : Mr.V.Muruganandam
Additional Govt. Pleader
For R4 : Mr.C.K.M.Appaji

O R D E R

Heard both sides.

2. By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of R1 to R3. Counter of R4 is filed.

4. The petitioner has preferred the instant writ petition praying for passing of an order by this Court in directing the Fourth Respondent/Sakthi Vinayagar Hindu Vidyalaya School to permit his son viz., M.Madhan Kumar to continue his education in XI standard. According to the petitioner, his elder son M.Madhan Kumar was studying in the Fourth Respondent/School from the year 2006-07 academic year from his first standard and wrote the board



exam for the X standard in March-2016 and had secured 6.8 grade points out of 10. Subsequently, he had approached the Fourth Respondent on 03.06.2016 and sought for an application to get his son admitted in the XI standard.

5. The stand of the petitioner is that the Fourth Respondent had refused to furnish an application stating that they are not going to admit his son in their school for XI standard studies as his son had secured only 6.8 grade points. It is also represented on behalf of the petitioner that on further enquiry, he found that students, who had secured less than his son's mark were given admission by the Fourth Respondent School.

6. The prime grievance of the petitioner is that the Fourth Respondent is not permitting his son to continue his education with them and forcing him to take transfer certificate. In fact, the Fourth Respondent in a high handed fashion forcing him to obtain a Transfer Certificate and refusing to provide admission to his son in XI standard in their school. In fact, he had addressed a representation dated 06.06.2016, to the First respondent/District Collector, Tuticorin in person on the 'Grievance Day' and through registered post to the second and third respondents. The Third Respondent, on 06.06.2016, who was present in the first respondent/District Collector's Office immediately called the Fourth Respondent and made an enquiry. Further that, the Fourth Respondent/School informed that they had got some complaint against his son and hence, he was denied an admission. Later, the Third Respondent informed the petitioner that he would make an enquiry and would report to him.

7. The version of the petitioner is that on 11.06.2016, he received a communication from the third respondent stating that his son was denied the admission as the Fourth Respondent had informed that his son has bad activities and used to beat other students. Since his son was denied education by the Fourth Respondent, he has come forward with the present writ petition seeking for passing of an order by this Court in directing the Fourth Respondent to permit his son M.Madhan Kumar to continue his education in the Fourth Respondent / School in XI standard.

8. The Learned counsel for the petitioner has cited the decision of the Honourable Supreme Court (*Principal Kendriya Vidyalaya and others v. Saurabh Chaudhary and others*) reported in 2009 (1) SCC 794 at special page 795, it is observed as follows:

"In *Payal Gupta case*, (1995) 5 SCC 512, the Supreme Court clearly held that on passing the examination promotion from one class to the next higher class does not involve any fresh admission or readmission in the school and whether the examination is internal or a general examination conducted by an external statutory agency makes no difference in the position."



9. Also, on behalf of the petitioner, it is brought to the notice of this Court that in the said judgment, at page 803 at paragraph 20, it is *inter alia* observed as follows:

"The decisions of the three High Courts relied upon by Mr. Patwalia insofar as they go contrary to the decision in *Payal* [(2007 4 MLJ 400 (Mad), *D. Aravinth v. State of T.N.*] do not lay down the correct law. The decision of the Madras High Court coming under appeal takes the correct view of the matter and warrants so interference by this Court."

10. The Learned counsel for the petitioner relies on the Division Bench judgment of this Court *D. Aravinth and others v. State of Tamil Nadu*, represented by its Secretary to Government, School Education, Chennai and other reported in (2007) 4 MLJ 400 at special page 403 wherein at paragraph 6, it is observed as follows:

"6. Learned Special Government Pleader representing the State Government supported the case of the petitioners. He submitted that the same school having different streams cannot be allowed to hold further examination for admission to XI Standard. He submitted that the third respondent cannot admit students from other schools unless the existing students who have passed the X standard examinations are admitted. He submitted that the State Government has issued G.O.Ms.No.216, dated 11.06.2007 directing all the Higher Secondary Schools that admission of the student from class X to Class XI within the same school should not be treated as a fresh admission but only as a continuation of the original admission done in that school. All such students should be admitted in Class XI as far as possible subject to the availability of seats and students from other schools should be considered only after accommodating the students from their own schools."

11. Further, in the said decision, it is laid down as under:

"The right of the students to seek admission in the very same school from which they have passed the public examination of X standard cannot be defeated solely on the ground that the students coming from other schools have obtained higher marks in the last public examination and the students from other schools can be considered only after accommodating students of their own school."

12. The Learned counsel for the petitioner seeks in aid of the judgment of the Division Bench of this Court dated 31.07.2015 in *W.A. (MD).No.707 of 2015* between *A. Kathiresan vs. the Government of Tamil Nadu* represented by its Principal Secretary, School Education Department and 5 others, wherein at paragraph-69, it is observed as follows:

<https://hcservices.ecourts.gov.in/hcservices/> On the facts and circumstances of the case, we are of the view that admission of the students to standard 11th for the academic year 2015-16, ought not to have been



denied. Impugned proceedings in W.P.No.9433 of 2015, is set aside. Mandamus is issued to E.B.G. Matriculation Higher Secondary School, to admit K.Subashini and K.Keerthana, in Standard XI in Bio-Maths Group in the same school. Keeping in mind the prayers of Saint Francis, which everyone recites, let there be love, faith, hope, in the minds of everybody. Students, who are now directed to be admitted, should also consider, what the learned single Judge has observed on the role of teachers, which we reproduce:

?10.Mahatma Gandhi, the Father of the Nation has stated that? A teacher cannot be without character. If he lacks it, he will be like salt without its savour. A teacher must touch the hearts of his students. Boys imbibe more from the teacher's own life than they do from books. If teachers impart all the knowledge in the world to their students but do not inculcate truth and purity amongst them, they will have betrayed them. D.S.Radhakrishnan has stated that ? We in our country look upon teacher as gurus or, as acharyas. An Acharya is one whose aachar or conduct is exemplary. He must be an example of Sadachar or good conduct. He must inspire the pupils who are entrusted to his care with love of virtue and goodness.....?"

13. In response, the Learned Additional Government Pleader appearing for the respondents 1 to 3 submits that the third respondent, in the communication dated 22.06.2016, addressed to the Government Advocate (Education), Madras High Court, Madurai Bench, had stated that based on the petition received from the petitioner on the 'Grievance Day' in the subject matter in issue, an emphasis was made to admit the petitioner's son and in this regard, the Fourth Respondent / Principal, Sakthi Vinayagar Hindu Vidyalaya, Thoothukudi was informed. But the Principal of the Fourth Respondent through letter dated 07.06.2016, had stated that because of the bad conduct of the student and also that since he was beating other students, he was not to be admitted.

14. The Learned counsel for the Fourth Respondent / School strenuously contents that right from the beginning, the son of the petitioner viz., Madhan Kumar was unruly, arrogant and disruptive and he remained a burden to the School Management, teaching staffs and fellow students. Further, the said student committed mischief at primary school level and the School Management considering his tender age, ignored the matter. However, he continued his aggression even after reaching middle school and caused hindrance to the peaceful atmosphere and discipline of the school.

15. The Learned counsel for the Fourth Respondent brings it to the notice of this Court that the petitioner's son M.Madhan Kumar was involved in selling stickers and tattoos to the students and was also involved in selling them. Moreover, while he was studying XI standard, on 14.11.2011, he had stolen Rs.1,130/- from Hindi Teacher and was caught red-handed.



16. Further, it is represented on side of the Fourth Respondent that in the course of an enquiry, the student revealed that for purchasing a knife, he required money, so that he was involved in the theft and this issue was discussed in the School Staff Council Meeting and ultimately, it was resolved to reprimand and informed the same to his parents.

17. Apart from that, the petitioner's son M.Madhan Kumar on 04.01.2012, had clandestinely entered into the staff room and committed theft of cell phone of the first standard teacher and in fact, the cell phone along with six sim cards were recovered from his school bag and the cell phone was handed over to the first standard teacher. In this connection, the Learned counsel for the Fourth Respondent proceeds to state that as per decision of the Staff Council Meeting, the petitioner's son was censured for three days and his parents given a written apology for his misconduct.

18. It is also projected on the side of the Fourth Respondent that the petitioner's son always picked up quarrel with students, damaged the school property, stealthily entered into wash room and damaged the bucket and mugs and for the misconduct, his parents were summoned and they furnished a letter of undertaking to get the transfer certificate if he commits such mistake in future. Also that, while the petitioner's son was studying in X standard, he was regular in calling the male and female teaching staff by nicknames in front of the fellow students and thereby lowered their dignity. He joined hands with the XII standard students and he floated a gang and manhandled his classmates. Even for the said misconduct, his parents were summoned and a regret letter was submitted by them. Further, on 31.08.2015, he scribbled the science answer sheets, added excess marks and fought with the teacher. This matter was also discussed in the Staff Council and he was reprimanded.

19. The Learned counsel for the Fourth Respondent vehemently contends that admission to higher secondary school is not automatic and in the school of the respondent, all the applications to XI standard are to be placed before the School Committee and the selection will be made purely on merit and ability. Since the petitioner's son lacks discipline and he remained a headache to the school till X standard, it is not possible for the School Committee to accommodate him in the XI standard.

20. At this stage, this Court has perused the contents of G.O.Ms.No.126 of School Education (V) Department, dated 11.06.2007 and is of the considered view that in the said G.O., there is a reference to W.P.19834 of 2007 filed by one Selvan A.Mohammed Wasif and that the High Court had issued the following directions,

<https://hcservices9.courtsgo2.in/hcservices/>

(a) Admission of a student from class X to class XI within the same school should not be treated as a fresh



admission but only as continuation of the original admission done in that school. So issuing transfer certificate to class X students within the same school and readmitting them to class XI is against the rules.

(b) All the students of the same school who have qualified in class X Board Examination should be offered admission in Class XI as far as possible subject to the availability of seats. The schools may consider students from other schools for admission after accommodating the students of their own school.

(c) No admission test should be conducted by schools for their own students. After admitting their own students if there are still vacancies, they may be filled either on the basis of the Class X Board Examinations or by conducting an admission test for the students who are from other schools.

(d) No school should prescribe any cut-off marks for admission to class XI or for allotment of subjects.

21. Apart from that, in the aforesaid G.O.Ms.No.126 dated 11.06.2007, at paragraph-2, it was made mention of that with a view to implement the directions of the High Court of Madras, the Government had directed the Director of School Education/Director of Matriculation School, Chennai to communicate these orders forthwith to all Higher Secondary Schools in Tamil Nadu for strict compliance and also specified at paragraph-3 that the following procedure laid down by the High Court, Madras shall be followed regarding admission of students in XI standard.

22. This Court has given anxious consideration to the arguments advanced on behalf of the respective sides and noticed the contentions projected.

23. As far as the present case is concerned, even though the Fourth Respondent/School in their counter, at paragraph-3, had given a description of the offence committed by the petitioner's son and also in the typed set of papers, the Fourth Respondent/School had furnished the apology letters of the son of the petitioner dated 04.11.2011, 04.01.2012, 20.01.2012, 17.05.2012, 11.04.2015, the complaint of teacher dated 31.08.2015, the apology letter by son and wife of the petitioner dated 07.09.2015, and the application for transfer certificate from the petitioner addressed to the principal of the Fourth Respondent/School, this Court is of the earnest opinion that the misconducts relied on by the Fourth Respondent/School pertains to the earlier orders and going by the spirit and tenor of G.O.Ms.No.126 dated 11.06.2007, this Court is of the considered view that the Fourth Respondent / School is to follow the same in true letter and spirit. It appears that the Fourth Respondent in their counter filed to the writ petition filed by the petitioner had not referred to the ingredients of G.O.Ms.No.126 dated 11.06.2007. Indeed, the Fourth



Respondent/School had only referred to the past misconducts/misdeeds of the petitioner's son.

24. Be that as it may, in view of the ingredients of G.O.Ms.No.126 dated 11.06.2007 which in fact was addressed to the Director of of School Education, Chennai-6, the Director of Matriculation Schools, Chennai-6 and others, this Court comes to a resultant conclusion that the Fourth Respondent/School is to adhere to the tenor and spirit of the G.O.Ms.No.126 dated 11.06.2007 scrupulously. In fact, on going through the para-3 of the counter of the Fourth Respondent/School, this Court is of the firm view that the Fourth Respondent/School had only condoned/reprimanded the past misconducts/misdeeds of the petitioner's son in the school. Looking at from any angle, this Court is of the considered view that the action of the Fourth Respondent School in not permitting the petitioner's son to continue his education in the XI standard is not correct in the teeth of the ingredients of G.O.Ms.No.126 dated 11.06.2007. As such, this Court directs the Fourth Respondent School to permit the petitioner's son to continue his education in XI standard.

25. Before parting with the case, this Court, pertinently points out that the petitioner's son viz., M.Madhan Kumar is to mend his deviant behaviour in a big way by remaining good in the school which will be like preparing a 'Marathon'. In this regard, the petitioner's son should be advised by the parents, teachers and others concerned. At this stage, this Court quotes Swami Vivekananda, who said that 'neither money pays, nor name pays, nor fame, nor learning; it is character that cleave through admantine walls of difference. Indeed, 'Education is the anchor that holds life together through chopper waters'.

26. Viewed in above perspective, this Court opines that the petitioner's son should turn a new leaf in pursuit of his educational career. In case, if the petitioner's son namely, M.Madhan Kumar continues to indulge in misconduct(s) or misdeed (s), it is open to the Fourth Respondent/School to take stern action against him without showing any leniency/misplaced sympathy ofcourse as per rules and regulations.

27. With the aforesaid observations and direction, the Writ Petition stands disposed of. No costs. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS)

To

<https://hcservices.thoothukudi.org/> Collector,
Thoothukudi,
Thoothukudi District.



2. The Chief Education Officer,
E.V.Road, C.V.School Campus,
Thoothukudi.

3. The District Education Officer,
E.V.Road, C.V.School Campus,
Thoothukudi.

+1cc to Mr.G.Prabhu Rajadurai, Advocate in SR.33615

+1cc to Mr.C.K.M.Appaji, Advocate in SR.33710

+1cc to the Special Government Pleader in SR.33726

W.P. (MD) No.10516 of 2016
28.06.2016

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