



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.MANIKUMAR**
and
THE HONOURABLE MR.JUSTICE **C.T.SELVAM**

W.P. (MD) .No.6368 of 2016

A.Subbiah

.. Petitioner

versus

- 1.The Director,
School Education Department,
Chennai.
- 2.The Head Master,
Govt. Higher Secondary School,
Mooncherai,
Kanyakumari District.
- 3.The Head Master
Government Higher Secondary School,
Thengapattinam
Kanyakumari District.
- 4.The Head Master,
Government Higher Secondary School,
Kalkulam,
Thuckalay - 629 175,
Kanyakumari District.
- 5.The Head Master,
Government Girls Higher Secondary School,
Kalanay,
Tirunelveli District.
- 6.The Head Master,
Government Boys Higher Secondary School,
Pollachi,
Coimbatore District.
- 7.The Head Master,
Government Boys Higher Secondary School,
Kalveranpalayam,
Coimbatore District.
- 8.The Head Master,
Government Boys Higher Secondary School,
Sennur,
Coimbatore District.

. . Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents not to collect any special fees from the students by the school authorities and to grant such further or other orders as this Court may deem fit and proper in the circumstance of the case.

WEB COPY

For Petitioner : Mr.M.Alagappan

For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader

ORDER

(Order of the Court was made by **S.MANIKUMAR ,J.**)

A retired school teacher, and claiming himself to be a Public Interest Litigant, has sought for a writ of mandamus directing the respondents not to collect any special fees from the students. Supporting the prayer sought for, he has placed reliance on G.O.Ms.No.208, School Education Department, dated 10.10.2013, by which the Government have ordered that special fees would not be collected from Government Aided Higher Secondary School for Standard VI to XII. In the typed set of papers, the petitioner has enclosed letters of the respondents 2 to 8 indicating collection of fee.

2. When the matter came up for hearing, this Court has posed a question to Mr.M.Alagappan, learned counsel for the petitioner as to whether the petitioner has made any attempt to verify as to whether the fee indicated in the letters enclosed in the typed set of papers, is tuition fee or special fee, he answered in the negative.

3. On instructions, Mr.VR.Shanmuganathan, learned Special Government Pleader, submitted that the fee indicated in the letters of the Head Master, is only tuition fee and not special fee. The submission of the learned Special Government Pleader is placed on record.

4. Mandamus sought for is only misconceived. Before parting with the case, we wish to add two decisions of the Hon'ble Supreme Court as to when and how a Public Interest Litigation, should be filed.

(a) While observing that Public Interest Litigation is a weapon to be used with great care and circumspection, in **2008 (1) MLJ 1075 - Holicow Pictures Pvt.Ltd. v. P.C.Mishra**, the Supreme Court has held as under:-

"20.The Court has to be satisfied about (a)the credentials of the applicant; (b)the prima facie correctness or nature of information given by him; (c)the information being not vague and indefinite. The information should show gravity and seriousness involved. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature."

(b) In **State of Uttaranchal v. Balwant Singh Chaufal**, reported in **(2010) 3 SCC 402**, it has been held as follows:-

"178. We must abundantly make it clear that we are not discouraging the public interest litigation in any manner, what we



are trying to curb is its misuse and abuse. According to us, this is a very important branch and, in a large number of PIL petitions, significant directions have been given by the courts for improving ecology and environment, and the directions helped in preservation of forests, wildlife, marine life, etc. etc. It is the bounden duty and obligation of the courts to encourage genuine bona fide PIL petitions and pass directions and orders in the public interest which are in consonance with the Constitution and the laws.

179. The public interest litigation, which has been in existence in our country for more than four decades, has a glorious record. This Court and the High Courts by their judicial creativity and craftsmanship have passed a number of directions in the larger public interest in consonance with the inherent spirits of the Constitution. The conditions of marginalised and vulnerable section of society have significantly improved on account of Courts' directions in PIL.

180. In our considered view, now it has become imperative to streamline the PIL.

181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

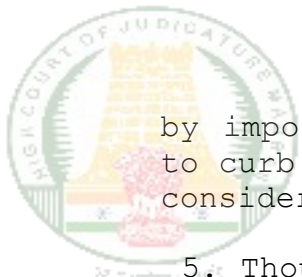
(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged



by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.''

5. Though writ petitioner is sought for a mandamus without verifying any details as to whether the amount collected falls under tuition fee or not and, when time and again the Hon'ble Supreme Court has held that frivolous petitions has to be dismissed with exemplary costs, considering the the age of the writ petitioner and the avocation, we refrain from imposing costs with the hope that that the petitioner will not indulge in filing such frivolous petition in future. The Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

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+1 CC to Mr.M.Alagappan, Advocate, SR No.18298

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