



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2016

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition (MD) No.9922 of 2013

and

M.P(MD)No.1 of 2013

The Green Park Play School,
represented by trustee,
C.Hemalatha,
43, Mettutheru,
Woriyaur, Trichy - 3.

... Petitioner

Vs.

The District Elementary Educational Officer,
Trichy, Trichy District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.216/A2/2013, dated 13.06.2013 and quash the same as illegal.

For Petitioner : Mr.B.Jameel Arasu
For Respondent : Mr.V.Muruganandam,
Additional Government Pleader.

ORDER

The petitioner is a play school situated in Woraiyur, Trichy District. It is only a play school admitting the children between the age of 18 months and four years. It is stated that they are also collecting very nominal fees for admitting the children. It is contended in the affidavit that the Right of Children to Free and Compulsory Education Act, 2009 is not applicable to the play school. While so, the respondent on 13.06.2013, passed the impugned order directing the petitioner school to be closed immediately as it is not recognised. Aggrieved by the same, the present writ petition has been filed.

2.The first contention is that the Right of Free and Compulsory Education Act 2009 is not applicable to a play school and it will not come under the purview of the above Act. Secondly, the petitioner alleges that the petitioner school was not given an



opportunity before passing the impugned order and thereby the same is vitiated. Thirdly, since the petitioner school is only a private play school for kids, the above said Act will not apply and the concerned Government Order also has got no application.

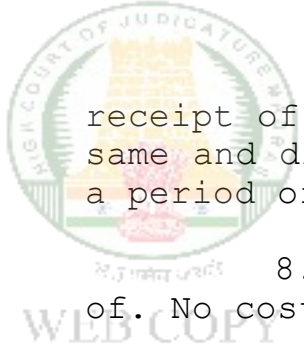
3. Pending the writ petition, though there was no interim order, it is stated that the school is running despite the closure order.

4. The respondent has filed a counter affidavit contending that though the petitioner school is not a regular school but it is collecting fees from the parents under the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. It is also stated that a show cause notice was issued to the petitioner on 17.07.2012 for which there was no response. Therefore, on 26.09.2012, a second show cause notice was issued to the petitioner by registered post for which a reply was sent by the petitioner contending that the school is dealing with the children between the age of 2½ and 5 years and therefore, it will not come under the regular school. Rejecting the said contention, a third show cause notice was issued to the petitioner by registered post followed by the impugned order.

5. The counter affidavit filed also referred to an order passed in W.P(MD)No.15802 of 2013, dated 19.06.2013 passed by this Court in a similar matter. In the said case, it is agreed by the school that they are bound by the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and sought liberty to make an application before the respondent along with the required documents for the purpose of granting recognition for its nursery school.

6. Learned counsel for the petitioner prays for similar liberty to make an application before the respondent for granting recognition for its school. It is useful to mention here that on 14.08.2014, the First Bench of this Court had given a direction to the respondents for inspection of private institutions and their compliance to the statutes that are applicable to them.

7. It is specifically directed therein that while inspecting the school, if they are submitting proposal in the prescribed format, the said schools will be considered for recognition by the competent authority. The schools which are found to be ineligible for recognition will be issued closure notice immediately by the competent authority. In the case on hand, a closure notice was issued which is now under challenge. But the petitioner seeks to get an exemption as it is not a regular school and it is only a preschool. However, the said contention may be considered by the authorities, if the petitioner school submits a proposal in the prescribed format for recognition along with required documents within two weeks from the date of



receipt of a copy of this order. The respondent shall consider the same and dispose of it on merits and in accordance with law within a period of two months thereafter.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The District Elementary Educational Officer,
Trichy, Trichy District.

+ 1 CC TO MR.B.JAMEEL ARASU, ADVOCATE IN SR NO. 21189
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 21034

SMS

TE/GSV-PM/ : 06/05/2016 : 3P/4C

Writ Petition (MD) No.9922 of 2013
and
M.P (MD) No.1 of 2013
13.04.2016