

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.30058 of 2017

and

W.M.P.Nos.32621 to 32623 of 2017

Coimbatore Arya Vysya Samajam

[R egd. No.48/71]

Rep by its General Secretary

Mr.Shekhar Viswanath

No.73, Vysial Street

Coimbatore-641 001.

...Petitioner

Vs.

1.The Secretary

Educational Department

Government of Tamil Nadu

St. Fort George

Chennai.

2.The Collector

Collectorate Building

Coimbatore-641 001.

3.The Chief Educational Officer

No.500, Raja Street

Coimbatore-641 001.

4.The District Elementary Educational Officer

No.500, Raja Street

Coimbatore-641 001.

5.The Assistant Elementary Educational Officer

No.500, Raja Street

Coimbatore-641 001.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records of the proceedings of the 4th respondent vide Na. Ka. No.2907/A4/2016 dated 27.01.2017 and quash the same and consequently direct the 2 to 5 respondents to issue transfer order to the teachers working in the petitioners school and transfer the students studying in the petitioner school to the nearby school by the 5th respondent till the demolition and reconstruction of the petitioner school is completed.

For Petitioner : Ms.C.Uma
For Respondents : Mr.T.M.Pappiah
Special Government Pleader

O R D E R

The petitioner school is functioning right from the year 1942. Since, the school building has become dilapidated, the Executive Committee of the School passed a resolution on 31.05.2010 for demolition and reconstruction and based on the resolution, the Executive Committee sent a letter dated 27.08.2010 to the 5th respondent, namely, the Assistant Elementary Educational Officer, Coimbatore. The inspection made and the report of the Public Works department dated 12.06.2012 clearly established that the building is in dilapidated condition. Since the Executive Committee had decided to demolish and reconstruct, a requisition has been given to the 3rd respondent to transfer the students as well as the teachers temporarily to the nearby schools. So that the building could be demolished and reconstructed.

2.However, by proceedings dated 31.07.2013, the 5th respondent, instead of approving the transfer of students and teachers to the neighbouring schools, the 5th respondent has permitted the petitioner to renovate the building and conduct the classes simultaneously in the premises. The 4th respondent has also passed a similar order on 27.01.2017. The said order is being challenged before this Court.

3.Heard Ms.C.Uma, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the respondents.

4.Since there is no provision for temporarily accommodating the students and the teachers in the neighboring schools, the impugned order has been passed to renovate the school building and conduct the classes simultaneously in the premises.

5.When the matter is taken up today i.e.04.12.2017 before this Court, Mrs.C.Uma, learned counsel appearing for the petitioner filed an additional affidavit of one Shekhar Viswanath on behalf of the petitioner stating that the petitioner is ready to transfer the students and teachers to the neighbouring schools. Paragraph no.14 of the said affidavit is extracted as follows:-

"14.In fact the other schools which are nearby (within 700 meters of radius) to the petitioner's school have also orally agreed to

adopt the children with the approval of the 5th respondent and with transfer certificate to the children. Further the said schools have also orally accepted to adopt the teachers till the construction period is completed. The petitioner is enclosing a tabulated sheet of the nearby schools and its details. The petitioners may be pleased to read the same as part and parcel of this affidavit.

Sl. No.	Name of the school	Address of the school	Distance from the petitioner's school
1.	Coimbatore Corporation Elementary School	Okkiliar Colony, Coimbatore	0.7 k.m.
2.	Coimbatore Corporation Higher Secondary School	Okkiliar Colony, Coimbatore	0.7 k.m.
3.	Corporation Middle School	Big Bazaar Street, Coimbatore	0.5 k.m.
4.	Corporation Elementary School	Ottha Chakkara Street, Coimbatore	0.3 k.m.

At the time of hearing, a suggestion was put forth to the petitioner to close down the above said school. In order to prove its genuineness, the petitioner also accepts and undertakes to withdraw the grant of aid from the Government of Tamil Nadu and to close operation of the said school and the respondents may be directed to transfer the school students to the other nearby schools which are stated above. However, the petitioner may be permitted to reserve its right get the grant of permission from the Government of Tamil Nadu after completion of the construction of the school building."

6.A perusal of paragraph 14 would show that the petitioner sent a letter for withdrawal of the grant of aid from the Government to the petitioner's school. However, the reservation of right to ask for grant of aid after construction would not be available to the petitioner. Once the petitioner agrees for withdrawal of the grant of aid from the Government, it is not open to the petitioner to ask for the same as the Government has already decided not to grant any aid to any of the private

schools.

7. Therefore, the impugned order is quashed with a direction to accommodate the students permanently in the neighbouring schools. The respondents are directed to withdraw the grant of aid to the petitioner's school.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

may a

To

1. The Secretary
Educational Department
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Chennai.
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+2cc to Mr.S.MURAIL Advocate, S.R.No. 86051
+1cc to the Government Pleader, S.R.No. 86922

W.P. No.30058 of 2017

SK(CO)
TR(09/01/2018)