

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2017

Coram

The Hon'ble Mr.Justice M.M.SUNDRESH

W.P.No.6623 of 2017
and W.M.P.No.7107 of 2017

Dr.V.Rajesh

...Petitioner

Vs.

1. Central Board of Secondary Education
Rep. by its Chairman
Shiksha Kendra,
No.2, Community Centre,
Preet Vihar, Delhi 110092.
2. The Regional Officer,
Central Board of Secondary Education 1630A,
J Block 16th Main Road,
Anna Nagar, Chennai 40.
3. Srimathi Sundaravalli Memorial School,
Rep. by its Correspondent
Perungalathur.
Chennai 600063.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to consider and dispose petitioner's representation dated 27/02/2017 challenging the 3rd respondent's circulars regarding availing school transportation.

For Petitioner : M/s.S.P.Arthi

For Respondents 1 & 2 : No Appearance

For Respondent No 3 : Mr.AR.L.Sundaresan
Senior Counsel for
Mr.S.Kothandaraman

O R D E R

This petition has been filed for issuance of writ of Mandamus, directing the 2nd respondent to consider and dispose petitioner's representation dated 27.02.2017 challenging the 3rd respondent's circular regarding availing school transportation.

2.The Petitioner is a father of the student who is studying in the 3rd respondent school. The grievance of the petitioner appears to be with respect to the compulsory transportation charges mandated by the 3rd respondent with a caveat that only the transportation arranged by the said respondent alone be used for all the children on the premise that it is its responsibility.

3.The learned counsel appearing for the petitioner would submit that the circular has exceeded the advisories given by the authorities concerned. There is no mandate of law which forces the students to commute only in the transportation facility provided by the 3rd respondent. Consequently, it cannot be said that such transportation would incur the responsibility on the part of the 3rd respondent.

4.The learned Senior Counsel appearing for the 3rd respondent would submit that the circular has been issued on the premise that it is the responsibility of the 3rd respondent to see to it that safety of the students is taken care of even while commuting and keeping that alone in mind, the circular was issued.

5.The learned counsel appearing for the petitioner seeks to suggest that the intention appears to be otherwise. There is an involvement of commercial interest in the garb of protecting the interest of the students.

6.On a query put forth by this Court, the learned senior counsel appearing for the 3rd respondent would submit that if the Court clarifies the position that the responsibility of the 3rd respondent would not come in a case where the parent of the ward studying in the 3rd respondent institution makes arrangement for transportation privately, then there would be no difficulty. In otherwords, the learned senior counsel would submit that while a parent is at liberty to have private transportation arrangement to bring his ward into the 3rd respondent school and thereafter, take it back after the school hours, it can be clarified that in such an eventuality, for any untoward incident, the 3rd respondent is not responsible.

7.On a perusal of the advisories issued both by the Transport Department as well as the School Authorities of the

State, it is clear that it may be only advisory in nature. Therefore, it cannot be said even in a case involving private arrangement with respect to the transportation of the students, the 3rd respondent would become responsible for any untoward incident. In such view of the matter, there cannot be any difficulty as fairly submitted by the learned senior counsel appearing for the 3rd respondent to permit a parent of a student studying in the institution of the 3rd respondent to have his own transportation and therefore, there is no necessity to compulsorily pay the transportation charges fixed by the 3rd respondent for using its facilities. Hence the option is left open to the parent to choose. In the case on hand, the petitioner does not want to use the facilities provided by the 3rd respondent and therefore, it cannot be compelled on him either by making payment for the aforesaid purpose followed by the usage.

8. Accordingly, the Writ petition stands disposed of by permitting the petitioner to provide his own transportation for his ward to take it to the school and thereafter take it back to his residence. For doing so, the 3rd respondent does not have any responsibility attached to it since the arrangement is between the petitioner and his transporter. Consequently, the question of using the transportation provided by the 3rd respondent and payment to be made for the aforesaid purpose does not arise.

9. With the above clarification, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar (CS II)

/true copy/

Sub Asst. Registrar

raja
To

1. Central Board of Secondary Education
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2. The Regional Officer,
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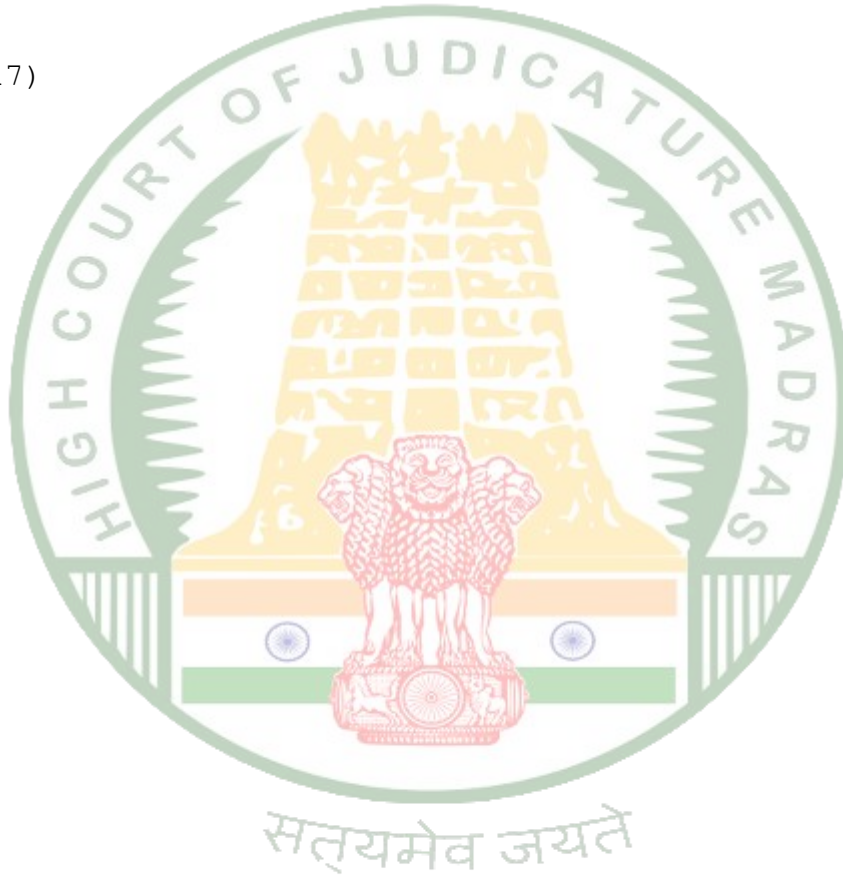
3. Srimathi Sundaravalli Memorial School,
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Perungalathur. Chennai 600063.

+1cc to Ms.S.P.Arthi,Advocate sr.43513

+1cc to Mr.S.Kothandaraman,Advocate sr.43129

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sr(co)
ss(3/7/2017)



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