

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. No. 10804 of 2017

and

W.M.P.No.11747 of 2017

Amalorpavam Higher Secondary School,
Rep., by its Principal,
Puducherry - 605 001.

..Petitioner

Vs.

1. Union of India,
Union Territory of Puducherry,
Rep., by the Secretary to Government,
Education Department, Govt. of Puducherry,
Puducherry.
2. The Directorate of School Education,
(Secretariat Wing),
Rep., by the Under-Secretary to Government,
Govt. of Puducherry, Puducherry.
3. The Director of School Education,
Directorate of School Education,
Govt. of Puducherry, Puducherry.
4. The Joint Director of School Education,
Directorate of School Education,
Govt. of Puducherry, Puducherry.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus calling for the records relating to (i) The Order bearing No.5/DSE/HSW/AC/A-1/Recogn/2009, dated 24.12.2010, (ii) The Memorandum bearing No.60417/DSE/HSW/AC/A1/2016-17/2, dated 06.04.2017, (iii) The Order No.1704/DSE/HSW/AC/A1/2017, dated 12.04.2017 and (iv) The Circular bearing No.3089/DSE/HSW/AC/A1/2016, dated 18.08.2016 on the file of the 4th respondent and quash the same in so far as the same is restricting the permanent recognition granted by them to the petitioner school for a period of four years and directing it to file applications and renew the same periodically and consequently, forbearing the respondents 3 and 4 from insisting

the petitioner to file applications and renew the permanent recognition granted under the order bearing No.5/DSE/HSW/AC/A1/Recogn/2009, dated 24.12.2010, in future.

For Petitioner :: Mr.T.P.Manoharan, Senior Counsel
for Mr.K.P.Jotheeswaran

For Respondents 2 to 4 :: Mr.C.T.Ramesh
Additional Govt. Pleader

O R D E R

The petitioner is a school established as an Unaided Private Minority School on 26.04.1984. During the academic year 1989-1990, it was upgraded as a Middle School and thereafter, as High School during 1991-1992 and as a Higher Secondary School during 1992-1993. More than 8000 students are studying and 530 staff are working in the school.

2. The petitioner school is being run only after getting recognition. Rules 24(2) & (3) of Pondicherry School Education Rules, 1996 prescribes that Certificate of Recognition has to be issued in Form IX to Private Schools like the petitioner under Section 12(1) of Pondicherry School Education Act, 1987 (PSE Act in short). All along, the petitioner has been getting renewal of recognition for every academic year. However, by the order dated 24.12.2010, while granting permanent recognition to the petitioner's school for conducting Classes LKG to XII standard, it has been stated that the permanent recognition granted would be subject to review every four years. The portion of the order dated 24.12.2010, which contains "subject to review of recognition every four years" is being challenged in this writ petition, besides challenging the circular issued by the 4th respondent dated 18.08.2016, instructing the Heads of all Schools in the U.T. Of Puducherry, including the petitioner, to give proposals/applications for upgradation/renewal of recognition; the memorandum dated 06.04.2017 issued by the 4th respondent issued to all the private schools including the petitioner, instructing to submit certain documents to process the renewal of recognition for the year 2016-2017 and the order dated 12.04.2017 issued by the 4th respondent.

3. Mr.T.P. Manoharan, learned Senior Counsel for the petitioner would submit that Section 12(1) of the Act contemplates only Certificate of Recognition and there is no provision under the Act for granting permanent recognition subject to review of recognition every four years.

4. On the other hand, Mr.C.T. Ramesh, learned Additional Government Pleader (Pondicherry) would submit that it is only for the purpose of "check and balance" that the impugned order

dated 24.12.2010 had been passed as well as to ensure that proper infrastructure is made available in the school.

5. Section 12 (1) of the PSE Act, 1987, which speaks about Certificate of Recognition reads as follows:

RECOGNITION OF PRIVATE SCHOOL

"12. (1) On receipt of an application by -

(a) any private school in respect of which permission has been or is deemed to have been granted under section 6; or

(b) any minority school;

the appropriate authority may, after satisfying itself, that proper arrangements have been made for the maintenance of academic standard in the school, that the provisions of this Act are complied with and that the prescribed conditions have been satisfied grant a certificate recognising the private school for the purposes of this Act..."

In this case, right from the year of its establishment, the petitioner school has been granted recognition periodically. Subsequent to its upgradation as Higher Secondary School, permanent recognition was granted by the impugned order dated 24.12.2010 and the relevant portion of the said order is extracted as follows:

"..In continuation to the order dated cited under reference, approval of the Director of School Education, Puducherry is hereby conveyed to grant Permanent Recognition to Amalorpavam Higher Secondary School, Vanarapet, Puducherry for conducting classes from L.K.G. to XII standard, subject to review of recognition, every four years. Every four years the inspection committee constituted by this Directorate will inspect the school and will renew the recognition."

A reading of the said order would show that the petitioner has been granted permanent recognition. As far as the portion of the order granting permanent recognition to the petitioner school is concerned, the petitioner has no issues. The grievance of the petitioner is only with regard to the portion of the order, which contains the rider, namely, "subject to review of recognition every four years". The question of reviewing the recognition every four years does not arise as it is not contemplated either under the Act or under the Rules. Therefore, the rider clause contained in the order dated 24.12.2010 is foreign to the Act and it deserves to be struck down.

6. Further, it is not as if only every four years, the respondents have to inspect the petitioner school for reviewing

the recognition granted to the petitioner. The respondents are at liberty to inspect the petitioner school and based on the report, review the recognition at any point of time under Section 13 of the Act, namely, "Withdrawal of Permanent Recognition" and it is extracted as follows:

"13.(1) The appropriate authority may withdraw permanently or for any specified period the recognition of any private school -

(a) which does not comply with any of the provisions of this Act, or any rules made or directions issued thereunder insofar as such provisions, rules or directions are applicable to such private schools, or

(b) in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or\

(c) which contravenes or fails to comply with any such conditions as may be prescribed...."

Therefore, fixing four years for reviewing the recognition is unnecessary as the respondents have got powers to review the very next day itself. Therefore, the portion of the order dated 24.12.2010, which states "subject to review of recognition every four years" is set aside and also the Memorandum bearing No.60417/DSE/HSW/AC/A1/2016-17/2, dated 06.04.2017, the Order No.1704/DSE/HSW/AC/A1/2017, dated 12.04.2017 and the Circular bearing No.3089/DSE/HSW/AC/A1/2016, dated 18.08.2016 on the file of the 4th respondent are set aside insofar as the petitioner is concerned. However, it goes without saying that the respondents have got power and jurisdiction to review the recognition as per law. The writ petition is disposed of accordingly. No costs. Connected W.M.Ps are closed.

Sd/-

Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

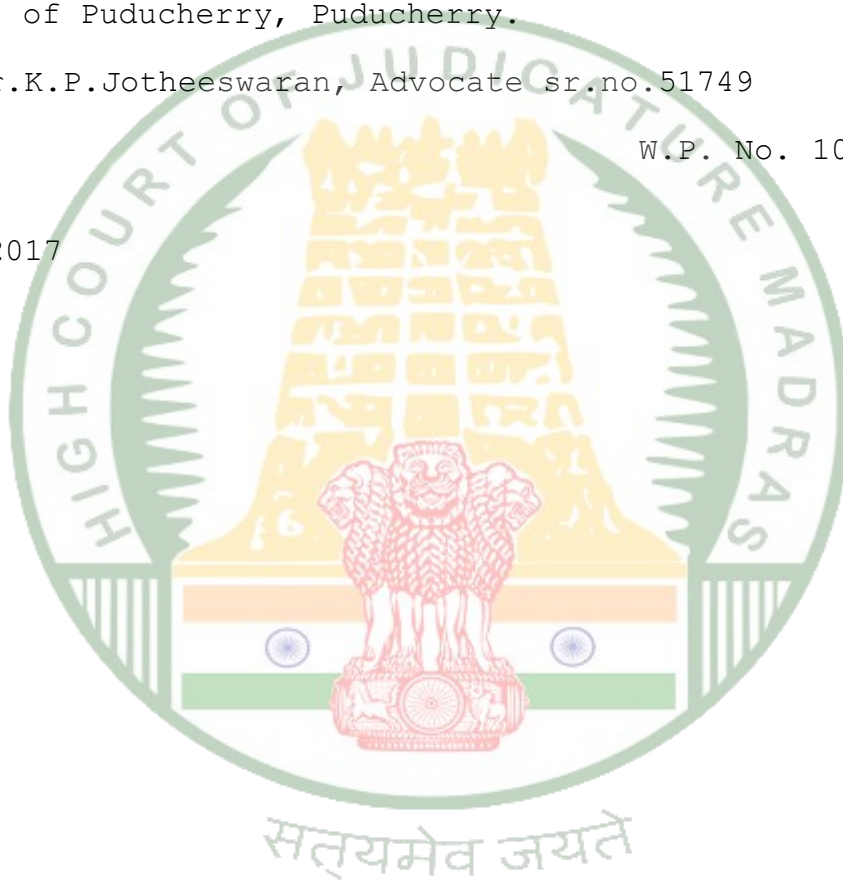
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+1cc to Mr.K.P.Jotheeswaran, Advocate sr.no.51749

W.P. No. 10804 of 2017

gmr (co)
nr 02/01/2017



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