

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.12350 of 2017
and
W.M.P.No.18775 of 2017

K.Anuradha,
W/o. Mr.R.Raja,
Sri Alamelu Flats,
Flat No.G2, Door No.A6, AGS Colony,
Nanganallur, Chennai -600 061.Petitioner

Vs.

1. The Principal,
Modern Senior Secondary School,
AGS Officers Colony, Nanganallur,
Chennai -600 061.
2. Joint Secretary & Regional Officer,
Central Board of Secondary Education,
New No.3, Old No.1630A, J Block,
16th Main Road, Anna Nagar West,
Chennai - 600 040.
3. The Chairman
Central Board of Secondary Education,
Head Office, "Shiksha Kendra"
No.2, Community Center,
Preet Vihar, Delhi - 110092 ...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 2 to 3 to consider the petitioner's representation dated 02.05.2017 and admit her son R.Harshavaradhan in the X standard in the 1st respondent school.

For Petitioner : Mr.K.Seetharaman

For Respondents : Mrs.S.Anuradha Balaji for R1
Mr.G.Nagarajan for R2 and R3

O R D E R

The petitioner is before this Court seeking a Writ of Mandamus directing respondents 2 and 3 to consider her representation dated 02.05.2017 and to admit her son R.Harshavaradhan in the first respondent school.

2. The petitioner contends that her son has been studying in the first respondent school right from L.K.G and he completed 9th standard during the academic year 2016-2017. However, the school authorities are stating that he got failed and therefore, he could not be promoted to 10th standard. The petitioner's son has been doing very well academically and in spite of that deliberately the petitioner's son has been retained in the 9th standard and in fact, the school authorities demanded Rs.1,00,000 as donation for promotion or to take Transfer Certificate to go to some other school. Hence, the petitioner made a representation to the respondents on 02.05.2017 and approached this Court seeking for admission of her son in the 10th standard.

3. Heard Mr. K.Seetharaman, learned counsel appearing for the petitioner and Mr.S.Anuradha Balaji learned counsel appearing for the first respondent and Mr.G.Nagarajan learned counsel appearing for the second and third respondents.

4. There is no dispute with regard to study of the petitioner's son R.Harshavaradhan from L.K.G upto 9th standard in the first respondent school. The only grievance of the petitioner is that inspite of good performance academically by his son, for no reason, the petitioner's son has been deliberately retained in the 9th standard and the first respondent is not promoting him to 10th standard.

5. Further, it is stated that the school is not in the habit of giving mark sheet and therefore, the petitioner is not in a position to know about the awarding of marks by the first respondent school. It is further alleged that the petitioner's signature has been forged in the mark sheet issued by the first respondent. Even though the learned counsel appearing for the petitioner sought admission of the petitioner's son in the 10th standard, he changed his mind and submitted that the petitioner is not interested in allowing her son to study in the first respondent school, as the petitioner's signature was allegedly forged by the first respondent school.

6. On the other hand, Ms.S.Anuradha Balaji, the learned counsel for the first respondent school would submit that there is no necessity for the school to retain a bright student. In fact, the petitioner's elder son completed the higher secondary

school successfully and left this school. The academic performance of the student/petitioner's son right from the beginning has been very poor. In the 9th standard examination, the petitioner's son performance in SA 1 and SA2 continued to be very poor and therefore, left with no other go he was retained in the 9th standard. Therefore, she would submit that the writ petition is not maintainable. Further, the school authorities have got no necessity to forge the petitioner's signature in the mark sheet or any where else.

7. Heard Mr.Nagarajan, learned counsel appearing for respondents 2 and 3 . The mark sheets/grade sheets obtained by the petitioner's son right from Class 1 has been produced before this Court and a copy of which has also been served to the counsel for the petitioner. Though the performance is, evidently very poor, this Court is not inclined to look into the performance up to 8th standard, as it is the policy of the Government till now, not to fail any student up to 8th standard.

8. However, there is going to be a change in the policy of the Government to conduct examination in the 5th and 8th standard, from next academic year onwards.

9. The promotion started only in the 9th standard, where passing of all the examination is the must for the first time in the academic carrier of any student. The mark sheet produced before this Court by the first respondent is as follows:

Subject	CBSE Requirement	SA 1 Marks & Percentage	SA 2 Marks & Percentage
English	25%	4/70 5.7%	13/70 18.5%
Tamil	25%	26/90 28.8%	40/90 44.4%
Mathematics	25%	4/90 4.4%	5 ½/90 6.1%
Science	25%	5/90 5.5%	11/90 12.2%
Social Science	25%	6/90 6.6%	½ / 90 0.55%

10. As per the CBSE regulations, a student has to obtain atleast 25% marks in summative assessment (Both SA-I and SA-II taken together) to be eligible to qualify in the examination, i.e atleast 15 marks out of 60 marks and total 33% in each of the 5 subjects of scholastic year as per the present practice. If this yardstick is adopted, the petitioner son has passed only Tamil securing 44.4% and in all other subjects, he obtained only very less percentage and for that, the student cannot be found fault with.

11. No student can be condemned based on the academic performances. If not academically very brilliant, he must be very brilliant in any other field which has to be found by the school as well as by the parents and encourage the student in that area.

12. It is very unfortunate that the petitioner's son could not get 33%. When such is the proved fact, there cannot be any writ of Mandamus directing the respondents to admit the petitioner's son in the 10th standard.

13. Regarding fabrication of signature, there is no necessity for the school authorities to fabricate or forge the signature of the parents and the students. In fact, it is admitted by the petitioner themselves that they went to the school on 05.04.2017 on the date of declaration of results and that has been recorded in the C.C.T.V. Camera. Even if the school is to be benefited by any forgery, then there is scope for making such allegations. However, the school does not attain any such benefit. Therefore, the allegations of forging of signature of the petitioner is unwarranted and the same is rejected.

14. The petitioner gave a representation to the respondents on 02.05.2017, which is sought to be considered by the respondents. A close scrutiny of the representation would make it clear that the date of representation has been typed as 02.05.2017 and it was posted only on 08.05.2017, as evident from the postal receipts enclosed in page no:13 of the petitioner's typed set of papers. Having seen the petitioner's representation dated 08.05.2017 it is shocking to know that on the very next day the petitioner has filed the writ petition on 09.05.2017. First of all, when the representation was actually sent on 08.05.2017 the petitioner should have typed the date of the representation dated as 08.05.2017 and not misleadingly as 2.5.2017.

15. Even then she should have waited atleast for some time so as to enable the respondents to receive the representation and thereafter pass orders. The act of posting the representation on 08.05.2017 and filing the writ petition within 24 hours on 09.05.2017 is a deliberate fraud committed on the Court. The petitioner has not approached the Court with clean hands. The Writ of Mandamus to consider the representation even before it reaches the respondents hands is not maintainable. The petitioner is guilty of suppression of material facts and approached the Court with unclean hands and therefore the writ petition is liable to be rejected.

16. The act of filing the writ petition after sending the

representation on the preceding day is deprecated and discouraged. Accordingly, the writ petition is dismissed. Consequently, the connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

smn/maya

TO

1. Joint Secretary & Regional Officer,
Central Board of Secondary Education,
New No.3, Old No.1630A, J Block,
16th Main Road, Anna Nagar West,
Chennai - 600 040.

2. The Chairman
Central Board of Secondary Education,
Head Office, "Shiksha Kendra"
No.2, Community Center,
Preet Vihar, Delhi - 110092

+1cc to Mr.G.Nagarajan, Advocate, S.R.No.60707

+1cc to Mr.K.Seetharaman, Advocate, S.R.No. 60894

LRS (CO)
GN(05/10/2017)

W.P.No.12350 of 2017

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