

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2017

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. No. 13526 of 2017
&
W.M.P. No. 14613 of 2017

G. Jayaprakash ..Petitioner

Vs.

1. The Director,
School Educational Department,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Coimbatore District.
3. District Educational Officer,
Pollachi Educational Department,
Coimbatore District.
4. R. Kalyanasamy
5. V.R. Ranganathan
6. K. Pechimuthu
7. L. Ramamurthy
8. M. Sarathram ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 3rd respondent to consider the petitioner's objections in the form of representation dated 20.05.2017 and reject the representation given by 4th to 8th respondents dated 26.12.2016.

For Petitioner :: Mr.S. Venkatesh

For Respondents:: Mr.V. Anandhamoorthy
Addl. Govt. Pleader for R1 to R3
Mr.V. Selvaraj for R4 to R8

O R D E R

The petitioner, claiming to be the Secretary of Muthu Naidu Memorial High School, has filed the present writ petition seeking issue of a Writ of Mandamus directing the 3rd respondent to consider the petitioner's objections in the form of

representation dated 20.05.2017 and reject the representation given by respondents 4 to 8 dated 26.12.2016.

2. According to the petitioner, the petitioner school, namely, Muthu Nadiu Memorial High School, was established by the petitioner's father on 12.03.1960. The strength of students in the school is 200 starting from VI Standard to X Standard and 10 teachers are working. The school is a Government Aided School. There was a civil dispute between the petitioner and respondents 4 to 8 and the matter was finally concluded before the Honourable Supreme Court. The Civil Court, by judgment and decree dated 30.06.2011 in O.S. No. 168/2009, had appointed 7 trustees, out of whom, only 5 trustees are alive, namely, respondents 4 to 8 herein. Consequent upon the demise of two trustees appointed by the Civil Court, they gave a representation to respondents 1 to 3 on 26.12.2016 to recognise them as educational agency/trustees to administer the school. However, there was no response. Hence, the private respondents filed W.P. No. 10220 of 2017 and the said writ petition was disposed of by order dated 25.04.2017 directing the District Educational Officer, Pollachi to consider and dispose of the representation dated 26.12.2016 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of that order. Subsequently, the petitioner filed his objection to the 3rd respondent with regard to recognising respondents 4 to 8 as trustees of the subject school by submitting a representation on 20.05.2017. The said representation has not been considered and therefore, the petitioner is before this Court with the present writ petition for the relief aforesaid.

3. Heard Mr.S. Venkatesh, learned counsel for the petitioner; Mr.V. Anandhamoorthy, learned counsel for respondents 1 to 3 and Mr.V. Selvaraj, learned counsel for respondents 4 to 8.

4. The issue relating to management of the school has been settled by the Civil Court as early as on 30.06.2011 in O.S. No. 168/2009 filed by one L. Balakrishnan (since deceased) and R. Kalyanasamy, the 4th respondent herein against the petitioner and 3 others including the District Educational Officer, who is the 3rd respondent herein. While decreeing the suit, the Civil Court appointed 7 persons as trustees namely, R. Kalyanasamy, L. Balakrishnan, V.R.Ranganathan, K.Pechimuthu, L. Ramamurthy, A. Kandasamy and M. Sarathram. Aggrieved over the said judgment of the Trial Court, the present writ petitioner filed A.S. No. 484 of 2011 before this Court and the same was dismissed by judgment dated 29.06.2016 confirming the decree of the Civil Court. The Honourable Apex Court had also dismissed Special Leave to Appeal (c)....CC No(s). 3041/2017 filed by the petitioner as against the judgment in A.S. No. 484 of 2011, by order dated 17.02.2017, with cost of Rs.5000/-. Having lost upto the Honourable Supreme

Court, the petitioner cannot interfere with the constitution of the Trust, appointment of trustees and constitution of educational agency to administer the subject school by the District Educational Officer. The private respondents had rightly given representation dated 26.12.2016 to respondents 1 to 3 to recognise them as educational agency/trustees to administer the school. However, even after receipt of the said representation, no orders were passed, which compelled the private respondents to file W.P. No. 10220 of 2017 and by order dated 25.04.2017, the said writ petition was disposed of directing the District Educational Officer, Pollachi, to dispose of the representation of the private respondents within a period of four weeks from the date of receipt of a copy of that order. However, till date, no decision has been taken by the official respondents, especially, the 3rd respondent herein, on the representation of the private respondents. When a direction has been given, it is the bounden duty of the 3rd respondent, either to comply with the order or to seek extension of time to comply with the order. Nothing of that sort has been done by the 3rd respondent and the conduct of the 3rd respondent has to be deprecated. Once a Civil Court passes a decree, the 3rd respondent, especially when he was also a party to the Civil Court proceedings, is bound by the decree, apart from the direction issued by this Court on 25.04.2017.

5. The petitioner has got no locus standi to raise any objection regarding the recognition of respondents 4 to 8 as trustees or consequently, as educational agency, as they were appointed by the proceedings of the Civil Court under Section 92 CPC. If two vacancies of trusteeship arises, it is for the authorities to move the Civil Court for appointment of trustees. But, the same cannot be a bar for respondents 1 to 3 either to slow down the process or not recognise or remove the private respondents as trustees. Any failure on the part of respondents 1 to 3 to recognise private respondents 4 to 8 as trustees would mean violation of the Civil Court's decree as well as the order passed by this Court. Therefore, the 3rd respondent is directed to pass orders in the light of the judgment and decree passed by the Civil Court in O.S. No.168 of 2009 dated 30.06.2011, the order dated 25.04.2017 passed by this Court in W.P. No. 10220 of 2017 and the order passed by this Court today, on or before 16.08.2017 and report compliance on 17.08.2017 failing which respondents 1 to 3 shall appear before this Court on 17.08.2017.

6. In view of the above order passed by this Court, the mandamus sought by the petitioner is not sustainable as it would go against the Civil Court's decree. Hence, the writ petition stands dismissed with the above direction. No costs. Connected W.M.P. is closed.

7. Call on 17.08.2017 for reporting compliance.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

1. The Director,
School Educational Department,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Coimbatore District.
3. District Educational Officer,
Pollachi Educational Department,
Coimbatore District.

Copy to:

The Section Officer,
(Writ Section)
(for listing the case on 17.8.2017)

+1cc to M/s.D.Jayasingu, Advocate sr.53196

W.P. No. 13526 of 2017

gmI (co)
ss(31/7/2017)

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