

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P. No. 16688 of 2017

&

W.M.P. No. 18067 of 2017

M/s. PASSAM,
(Parents Association of Sainik School,
Amravathinagar),
rep. by its President
Mr.S. Eswaran
No. 21, Nehru Street Extension,
Arumaikkarran Thottam,
No.15, Velampalayam, Tirupur,
Tirupur District 641 652. ...Petitioner

Vs.

1. Union of India, rep. by
The Secretary,
Ministry of Defence,
101-A, South Block,
New Delhi.
2. Union of India rep. by
The Secretary,
Human Resource Development,
Shasthri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi.
3. The Principal,
Sainik School,
Amaravathinagar,
Udumalpet Taluk,
Tiruppur District.
4. The Joint Secretary (Trg & CAO)
E Block Dhalousie Road,
Sainik School Society,
Ministry of Defence,
New Delhi - 110 011.

5. The Inspecting Officer,
Sainik School Society,
Ministry of Defence,
R.No.G-101, D-1 wing,
Sena Bhawan,
New Delhi 110 011.
6. The Regional Officer,
Central Board of Secondary Education
(CBSE),
No.3 (Old No. 1630A), J Block,
16th Main Road, Anna Nagar (West),
Chennai - 600 040.
7. The Commandant, MRC & Chairman,
Local Board of Administration (LBA),
Sainik School, Amaravathinagar,
Wellington, Nilgris District. ...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus to direct the 6th respondent to award 20 grace marks in each subject for 12th examination held on 09.03.2017 in the current academic year 2016-2017 and also direct the 1st and 2nd respondents to give preferential right and also ensure the petitioner's Association Members' children serve in the defence/Army at the officer level and also consequentially direct the respondents to take appropriate action and enquiry against the Sainik School, Amaravathinagar, as per the petitioner's representation dated 06.03.2017.

For Petitioner :: Mr.K. Rajendra Prasad

For Respondents:: Mr.Su. Srinivasan,
Assistant Solicitor General
for R1 to R5 and R7
Mr.A. Nagarajan for R6

O R D E R

The Association of Parents of students of Sainik School has filed this writ petition seeking a Writ of Mandamus directing the 6th respondent to award 20 grace marks in each subject for 12th examination held on 09.03.2017 for the current academic year 2016-2017 and also direct the 1st and 2nd respondents to give preferential right and also ensure the petitioner's Association Members' children serve in the defence/Army at the officer level and consequentially direct the respondents to take appropriate action and enquiry against the Sainik School, Amaravathinagar, as per the petitioner's representation dated 06.03.2017.

2. The members of the petitioner Association are parents of ex-students of 7th respondent School, which is purely a residential school with an overall students' strength of 650. The school, whose medium of instruction is English, conducts classes from 6th standard to 12th standard following CBSE syllabus. Students seeking admission to 6th standard and 9th standard have to get through in the All India Entrance Examination conducted by the Sainik School Society under the Ministry of Defence, New Delhi. The 3rd and 4th respondents have direct administrative control over the Sainik School and the Local Board of Administration, under the Chairmanship of the 7th respondent plays a vital role in the administration of the school with regard to improvement of facilities and providing quality education.

3. The main grievance of the petitioner is that though the children of the members of their Association are very studious, they did not get the required marks in the Plus Two Examinations held on 09.03.2017, which they would have got otherwise, if the school had not declared holidays for nearly 45 days without any approval, affecting the conduct of classes, due to which the syllabus could not be completed. Even the said number of days, during which the students lost their classes, was not compensated by way of special classes.

4. Secondly, according to the petitioner, the teaching imparted in the school is substandard and the teachers are not trained enough to meet the present day syllabus and prepare the students accordingly, resulting in dismal performance of the children of the members of the petitioner Association in the Plus Two Examination.

5. Thirdly, on promises and assurances given by the 7th respondent School, by way of brochures and pamphlets, the members of the petitioner association were under a mistaken notion that once their children joined the 7th respondent school, they could be rest assured of their children being enlisted in the army or joining the defence service at the officer level, at the end of their academic career, which, however, turned out to be false, as hardly 4 to 5 students from the school join the defence service every year.

6. Fourthly, it is stated that many students, who were in 11th standard, were not allowed to go to 12th standard and asked to collect their Transfer Certificates, on the premise that their performance was very poor, thus, giving a chance for the Management to admit new students, so as to maintain the students' strength at 650 and to fill up the vacancies created by students, who were not permitted to continue in 11th standard and due to this approach of the School, the future of many students was put at stake.

7. Therefore, highlighting their grievances and furnishing the reasons for poor performance of the children of the members, the petitioner Association gave a representation on 06.03.2017 to the Chairman, Central Board of Secondary Education and sought grant of 20 marks as grace marks for each subject in the Plus Two Board Examination conducted in the year 2017 by the 6th respondent. In spite of receipt of the representation, so far, no action has been taken, which compelled the petitioner to approach this Court, by way of this writ petition.

8. Heard Mr.K. Rajendra Prasad, learned counsel for the petitioner, Mr.Su. Srinivasan, learned Assistant Solicitor General for respondents 1 to 5 and 7 and Mr.G. Nagarajan, learned counsel for the 6th respondent.

9. Though the allegations made in the affidavit would, prima facie, convince this Court to issue notice to the respondents, however, a close scrutiny of the allegations and also the submissions made by the learned Assistant Solicitor General, appearing on behalf of respondents 1 to 5 and 7 and the learned counsel for the 6th respondent, would reveal that the writ petition is devoid of merits.

10. As far as the main contention of the learned counsel for the petitioner that the School had declared unscheduled holidays for 45 days and there were no special classes conducted to compensate for the loss of classes, is concerned, Mr.Su. Srinivasan, learned Assistant Solicitor General would submit that there was a viral infection, due to which one of the students died and 10 others were affected and thereafter, based on the advice of the Health Department, which conducted an inspection of the premises, the school was closed down for 30 days, in the interest of students, to prevent the infection from spreading to other students, as it is a residential school and to compensate for the working days lost, special classes were conducted on Saturdays and Sundays and the "Diwali" holidays were also cut short for conducting special classes. Having been aware of these happenings, the petitioner has conveniently omitted to mention the above facts. Therefore, the petitioner is guilty of suppression of material facts and the writ petition is liable to be dismissed on this score.

11. As far as the grievance put forth regarding the standard of teaching in the school is concerned, the 7th respondent school is a Special School run by the Ministry of Defence to train students, in such a way, that they could be chosen to serve in the Army/Defence Service as Officers and therefore, equal importance is given to academics as well as physical education, unlike normal schools, where academic excellence alone will be

the paramount consideration. Since the Ministry of Defence is playing a vital role in the administration of such schools, the members of the petitioner Association cannot expect outstanding academic performance as that of normal schools. It is not, as if, the members of the petitioner Association were not aware of the nature of the school, in which their wards were admitted, curriculum and the benefit of undergoing the course in the school and therefore, they cannot turn around and now contend that the academic performance of the school is very low. Further, from a perusal of the following data furnished by the learned Assistant Solicitor General, by no stretch of imagination, the performance of the school could be rated as poor or below par:

Year	Total Strength	Below 35%	36% to 40%	41% to 50%	51% to 60%	61% to 70%	71% to 80%	81% to 90%	90% and above
2016	51	Nil	Nil	Nil	01	26	17	07	nil
2017	78	Nil	Nil	01	07	27	24	16	03

In both the aforementioned years, only one student has got marks below 50%. When such is the position, the members of the petitioner Association cannot have any grievance against the 7th respondent School.

12. As regards the contention of the petitioner that only 4 to 5 students get selected every year from the school to serve in the Army, though it is correct, it is submitted by the learned Assistant Solicitor General that other Sainik Schools equally send only 4 to 5 students and entry into Army is not by automatic absorption, after the completion of the Higher Secondary Course and the aspirants will have to clear the entrance examination conducted, in regard thereto. There is no rule or regulation enabling automatic absorption of students from Sainik Schools after completion of their Higher Secondary Course into Army. The School would only give proper and necessary training and prepare the students for the selection in a proper manner. If undergoing the course in a particular school itself would enable the students to get absorbed in any organisation, then, definitely, there would be a stiff competition for getting admission in that school. In India, no such school has got such a privilege, even if it is run by the Defence Ministry. Therefore, the contra contention of the learned counsel for the petitioner, in this regard, is also liable to be rejected.

13. As far as the allegation made by the learned counsel for the petitioner that students, whose performance is below par, in Plus One Course, are not allowed to continue and are sent out against their wishes is concerned, though there is no proof filed before this Court to substantiate the said allegation, de hors that, it has to be stated that performance cannot be linked to

continuation of the course. A student has got every right to continue and complete the course irrespective of his performance and if a student is sent out of the school, in the middle of the course, it may not be possible for the student to get admission in any other school in the middle of the academic year and he/she may not be able to complete the course violating his/her rights. Neither the parents nor the students should be put to such a delicate situation and therefore, in future, the 7th respondent school may refrain from turfing out students in the middle of the course, in future, based on their performance.

14. It has also been brought to the notice of this Court by the learned counsel for the petitioner that, of the members of the petitioner Association, criminal proceedings have been initiated against 11 of them, at the instance of the 3rd respondent, who is the Principal, Sainik School, Amaravathinagar, Udumalpet Taluk, Tiruppur District, for defamation before the learned Judicial Magistrate, Udumalpet in C.C. No. 148 of 2017. Learned Assistant Solicitor General would submit that having made defamatory statements and uncharitable remarks affecting the reputation of the school in the Media by the said 11 members of the petitioner Association, the school authorities have proceeded against them.

15. There is nothing unusual in parents, expecting outstanding performance from their wards, in the Plus Two Board Examination, which would decide their future career and being parents, they are entitled to have expectations. Every child is a super human being in the eyes of their parents, and since their hopes and aspirations got frustrated because of the low marks secured by their children in the Board Examination, probably, they would have been under the impression that it was due to poor teaching in the school, which would have made them to make such allegations in the media. But, still, on that ground, they cannot be allowed to go scot-free.

16. Hence, the members of the petitioner Association, who are being prosecuted are directed to give apology letters to the Management of the 7th respondent School for having rushed to the media making baseless allegations against the School, on or before 10.07.2017 and on receipt of such letters from the parents concerned, the 7th respondent School shall withdraw the case pending in C.C. No. 148 of 2017 on the file of Judicial Magistrate, Udumalpet, on its own.

17. As already pointed out, from the details given by the learned Assistant Solicitor General, it is evident that the students have performed very well and almost 50 students have got marks more than 61% in 2016 and out of 78 students, who passed the Plus Two Examination in 2017, 70 students have secured marks

above 60% and therefore, the prayer for award of 20 marks as grace marks in each subject in the examination held on 09.03.2017 is not sustainable. This Court has got no jurisdiction or power to give a direction to the 6th respondent - CBSE, to award grace marks. If the petitioner's contention is to be accepted, it will only open the Pandora's Box and similar claims will be made by other parents as well. Moreover, there is no rule or regulation enabling awarding of grace marks. The prayer sought by the petitioner itself is far-fetched and unsustainable. Hence, the writ petition is dismissed with the above directions. No costs. Connected W.M.P. is closed.

Sd/-

Asst.Registrar (CS II)

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Sub Asst. Registrar

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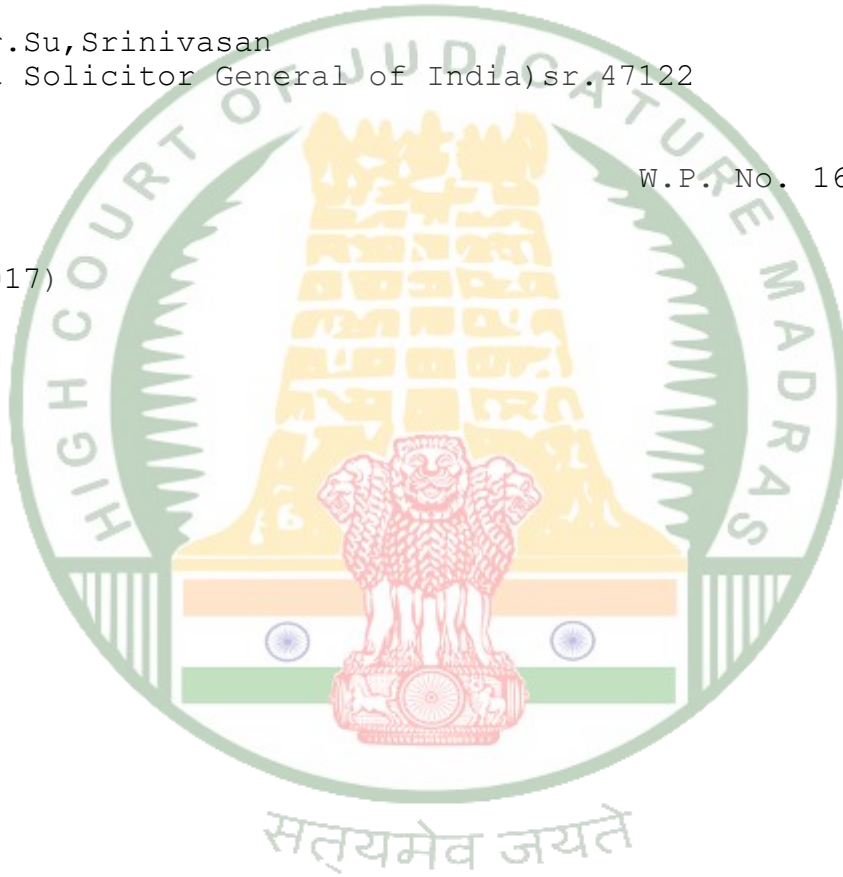
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+1cc to Mr.Su,Srinivasan
(Assistant Solicitor General of India)sr.47122

W.P. No. 16688 of 2017

rk(co)
ss(25/7/2017)



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