

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATEDd: 20.07.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 17173 of 2017

&

W.M.P. No. 18657 of 2017

Vibhashri R.M.

rep.by her father and natural guardian

M. Ranjith Kumar,

Old No.98, New No.11A,

Ghandhi Park, Coimbatore - 641 001.

..Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Department of School Education,
St. George Fort, Secretariat,
Chennai - 600 002.

2. Central Board of Secondary Education,
rep. by the Deputy Secretary & Public
Grievance Officer,
New No.3, (Old NO.1630-A), J Block,
16th Main Road, Anna Nagar,
Chennai - 600 040.

3. Amirtha Vidyalayam,
rep. by the Correspondent,
Ramasamy Nagar Extension II,
Nallampalayam,
Ganapathy Post,
Coimbaore - 641 006.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to Order No.CBSE/RO(M)/DS/PG/2017 dated 27.06.2017 passed by the 2nd respondent and quash the same and consequently direct the respondents to allow the daughter of the petitioner Vibhashri R.M. to pursue the education in the 3rd respondent school.

For Petitioner :: Mr.N.G.R. Prasad for
M/s. Row & Reddy

For Respondents:: Mr.V. Anandhamoorthy,
Addl.Govt. Pleader
for R1
Mr.G. Nagarajan for R2
Mr.R. Thiagarajan for R3

O R D E R

The petitioner has challenged the order dated 27.06.2017 issued by the 2nd respondent by which the petitioner was informed that he has failed to act as per the circular issued by the 3rd respondent school and hence, his request for admission of his daughter, by name, Vibhashri. R.M. in LKG could not be acceded to.

2. The facts of the case are:

The petitioner's daughter was admitted in 3rd respondent School in Pre K.G. last year and this year, she has to move on to LKG. However, the petitioner's daughter was denied admission to LKG and therefore, a representation was sent to the 2nd respondent, who, after getting response from the 3rd respondent school, informed the petitioner, by the impugned communication that since the fees payable, as per the circular issued by the 3rd respondent had not been paid within the time prescribed by the 3rd respondent, the school is not in a position to accept his request for admission of his daughter in LKG, due to non-availability of seats.

3. Heard Mr.N.G.R. Prasad, learned counsel for the petitioner; Mr.V. Anandhamoorthy, learned Additional Government Pleader for the 1st respondent; Mr.G. Nagarajan, learned counsel for the 2nd respondent and Mr.R. Thiagarajan, learned counsel for the 3rd respondent, who would submit that the petitioner cannot, as a matter of right, seek admission. He would further submit that the petitioner and a group of few others, are bent upon creating trouble for the School Management and staff and they have filed numerous cases, not only before this Court, but also other Courts, apart from making complaints to the Police. They have also gone before the Media making baseless allegations tarnishing the image of the school. Therefore, he would state that the 3rd respondent school has expressed its inability to admit the petitioner's child in LKG.

4. Admittedly, the petitioner's child was studying Pre KG during the academic year 2016-2017 and she has to move on to the next class, namely, LKG in 2017-2018. The objection raised by

the 3rd respondent school is that on 28th March, 2017, the school had sent a circular to all the parents of Pre KG students stating that "Annual fee payment, Books & Uniform Distribution" would be from 11.04.2017 to 15.04.2017 and a note had also been made in the diary of the petitioner's child that the circular had been sent. However, the petitioner did not pay the fee, as per the circular, within the time and instead, had sent a complaint to the 2nd respondent and only when the 2nd respondent sought response from the 3rd respondent school, as regards the complaint sent by the petitioner, the 3rd respondent came to know about the grievance of the petitioner.

5. Be that as it may. The petitioner's child has been studying Pre KG in the 3rd respondent school and for non-payment of fees, the child cannot be expelled from the school as per Section 16 of Right of Children to Free and Compulsory Education Act, 2009. Eventhough the Act speaks about elementary education, the proviso to Section 12(1)(c) states that "elementary education" would include Pre-School education also. Therefore, the petitioner's daughter, cannot be expelled or denied admission to LKG, merely because the petitioner failed to pay the fee amount in time, as per the circular dated 28.03.2017.

6. The default committed by the petitioner, by non-payment of fees, within the time stipulated by the 3rd respondent school, is not a statutory violation and it is only a circular issued by the school. Moreover, the petitioner is not seeking admission without payment of fees and he is ready to pay the requisite fee amount. In such circumstances, there is no occasion for the 3rd respondent school to deny the continuance of school education of the petitioner's child or expel her from the school.

7. Even assuming for a moment that there has been violation on the part of the petitioner in not paying the fee amount in time, but, the said aspect cannot be put against an innocent child, who, having been in the school for the past one year, would have got accustomed to the ambience of the school and would have also befriended some of her classmates and any dislocation is likely to disturb her psychologically. After all, the schools are established only to educate the children and when the petitioner's daughter had already completed one year in the same school, she cannot be denied admission to LKG, for no fault of hers.

8. Therefore, the 3rd respondent school shall accommodate the petitioner's daughter, namely, Vibhashri R.M., in LKG, on or before 27th July, 2017. The payment of fees shall be made by the petitioner on or before 27th July, 2017.

9. The above direction issued is only in the interest of the child. At the same time, this Court cannot be oblivious of the fact, which is evident from the submission made by the learned counsel for the 3rd respondent, that the petitioner did not behave properly with the School Management and created a ruckus by approaching the Media and by making complaints to the Police as well as to the CBSE authorities against the 3rd respondent school. When parents seek admission of their wards in a school, they are expected to behave properly and they cannot make complaints after complaints against the school, to which they are seeking admission. Moreover, the parents are under no compulsion to admit their child in a particular school.

10. Hence, the petitioner is directed to give a letter tendering his unconditional apology for having gone to the Media tarnishing the reputation of the school and also for making complaints to the Police as well as CBSE authorities against the school. The said letter shall be given by the petitioner at the time of payment of fees. Further, it is made clear that after the admission of the petitioner's daughter in the 3rd respondent school, the petitioner shall not enter the school premises and create any problem in future and only the mother of the child or the grandparents of the child, shall pick up or drop the child in school.

11. The writ petition is disposed of with the above direction. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

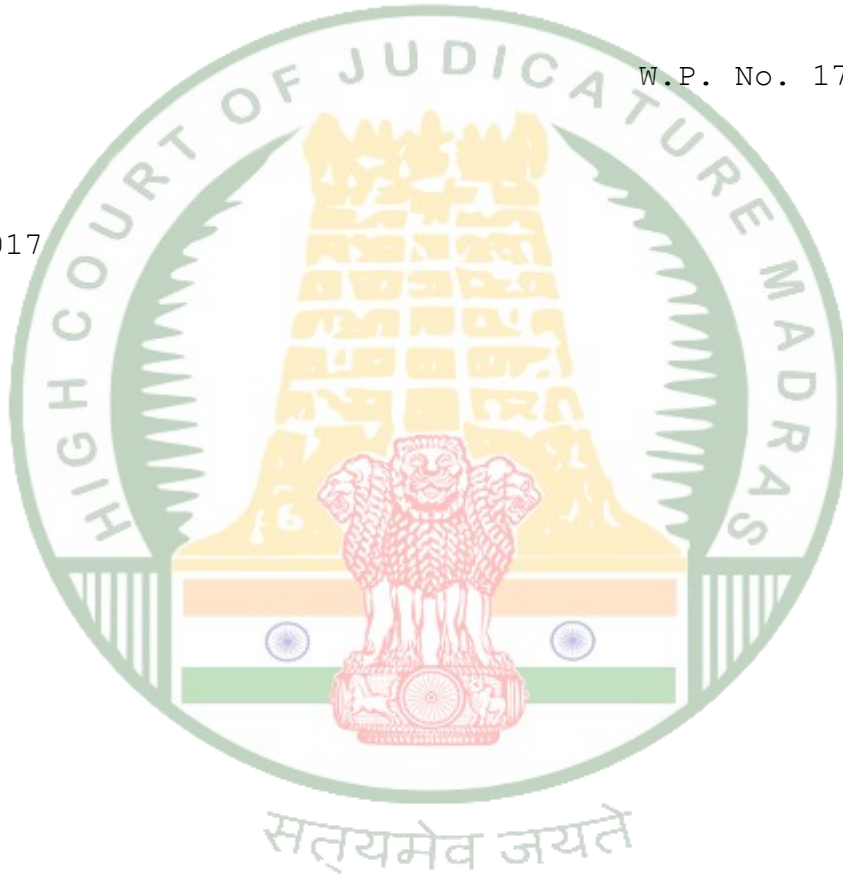
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+1 cc to M/s.Row & Reddy Advocate sr51168
+1 cc to Government pleader sr51410
+1 cc to Mr.G.Nagarajan Advocate sr 51521
+1 cc to Mr.R.Thiagarajan Advocate sr 51063

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