

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATEDd: 20.07.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 17174 of 2017

&

W.M.P. No. 18658 of 2017

D. Armaan Salik,
rep.by his father and natural guardian
A. Douloth Baasha,
Door No.6, Ranga Layout,
Nallampalayam, Ganapathy Post,
Coimbatore - 641 006. ...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,
Coimbatore - 641 006. ...Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Mandamus to direct the
respondents to allow the petitioner's son D. Armaan Salik to
pursue 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 seeks a Writ of Mandamus directing the respondents to allow his son D. Armaan Salik to pursue education in the 3rd respondent school.

2. The facts of the case are:

The petitioner's son was admitted in 3rd respondent School in Pre K.G. last year and this year, he has to move on to LKG. However, the petitioner's son was denied admission to LKG and therefore, representations were made by the petitioner to the 2nd respondent and 3rd respondent on 18.06.2017 and to the 1st respondent on 23.06.2017. The petitioner had also made a representation to the State Commission for Protection of Child Rights on 14.06.2017, pursuant to which he was called for an enquiry on 30.06.2017. Since the representations made by the petitioner did not evoke any response, the petitioner has come forward with the present writ petition seeking the aforesaid relief.

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 he 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 hence, his son was not allowed to enter the class on the re-opening day.

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 son, 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 him 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 his classmates and any dislocation is likely to disturb him psychologically. After all, the schools are established only to educate the children and when the petitioner's son had already completed one year in the same school, he cannot be denied admission to LKG, for no fault of his.

8. Therefore, the 3rd respondent school shall accommodate the petitioner's son, namely, D. Armaan Salik, 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. He had also approached the State Commission

for Protection of Child Rights. 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 son 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/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Secretary,
The Government of Tamil Nadu,
Department of School Education,
St. George Fort, Secretariat,
Chennai - 600 002.
2. The Deputy Secretary & Public
Grievance Officer,
Central Board of Secondary Education,
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.

+1cc to M/s.Row & Reddy,Advocate sr.51169

+1cc to Mr.R.Thiagarajan,Advocate sr.51062

W.P. No. 17174 of 2017

nm(co)
ss(21/7/2017)



WEB COPY