

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.18900 of 2017

and

W.M.P.Nos.20411 & 20412 of 2017

Association of Management of Private Schools
(CBSC) Represented by its
General Secretary A.T.B.Bose,
3rd Floor, 211/195, V.M.Street,
Mylapore, Chennai – 600 004.

... Petitioner

Vs

1. Central Board of Secondary Education,
Represented by its Secretary,
Siksha Kendra, No.2, Community Centre,
Preet Vihar, New Delhi 110 092

2. The National Council of Educational
Research and Training (NCERT)
Represented by its Director,
Sri Aurbindo Marg, New Delhi.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India
for issuance a Writ of Certiorari calling for the records resulting in the
impugned Circular No.CBSE/RO/[M]/JS/NCERT/2017 dated 06.04.2017
issued by the 1st respondent and quash the same.

For Petitioner : S.Namasivayam

For Respondents : Mr.G.Nagarajan for R1
Mr.Su.Srinivasan, for R2
Additional Solicitor General

ORDER

The petitioner/association has challenged the circular issued by the 1st respondent dated 06.04.2017, mandating the CBSE schools to buy NCERT books alone for their students and not from the private publishers which, according to them is contrary to the "ADHERENCE OF PROVISIONS OF THE AFFILIATION BYE-LAWS OF CBSE BY THE EDUCATIONAL INSTITUTIONS AFFILIATED TO THE BOARD".

2. This Court granted the following interim order on 26.07.2017:

"The petitioner is an association of managements of private schools (CBSE), representing about 287 CBSE schools. The members of the petitioner/association are CBSE schools, who are following CBSE curriculum in teaching. The association challenged the circular issued by the first respondent dated 06.04.2017, mandating the CBSE schools to buy NCERT books alone for their students.

2. The CBSE had issued a circular earlier dated 06.02.2014 in the name of "ADHERENCE OF PROVISIONS OF the AFFILITAION BYE-LAWS OF CBSE BY THE

EDUCATIONAL INSTITUTIONS AFFILIATED TO THE BOARD" giving the details of instructions to be followed. It also deals with issues like admission, prevention of sexual harassment, salary, service conditions of the staff, facilities for physically challenged, health, sanitation and fire safety, teacher training programme, etc., Clause R of the said circular speaks about "Books in School". The said clause is extracted as follows:

"R. Books in School

Rule 15.1(d):- The school will follow the syllabus on the basis of curriculum prescribed by NCERT/CBSE and text books publishing by NCERT/CBSE for the middle classes as far as practicable or exercise extreme care while selecting books of private publishers. The content must be scrutinised to preclude any objectionable content that hurts the feelings of any class, community, gender, religious group in society. If found prescribing books having such content, the school will have to take responsibility of such content. Provided that the school would put a list of such books prescribed by it on its website with the written declaration duly signed by the Manager and the Principal to the effect that they have gone through the contents of the books prescribed by the school and own the responsibility."

3.As per aforesaid instruction, the schools could

choose the text books as prescribed by NCERT/CBSE, (ie) either from NCERT or from private publishers. Having given such right or option to the CBSE schools, the first respondent issued a circular on 06.04.2017 stating that NCERT books are not obtained by the schools and that the schools must mandatorily use NCERT books alone, the relevant paragraph in the said circular is extracted hereunder:

"Therefore it is once again reiterated that the Principal/Head of Institution must pay personal attention towards implementation of usage of NCERT Books in their school. It may be marked that this office may make surprise visits in the schools to ensure, if the NCERT textbooks are used or not. Also, in the event of receipt of any complaint regarding non-implementation of NCERT books through any source, this office will be bound to initiate action against the defaulters as per rules of the Board. Also, the parents should not be coerced to buy the textbooks of private publisher/additional textbooks by the school authorities and the schools must mandatorily use the NCERT textbooks in their schools"

4. The circular dated 06.04.2017 is in contrast to the circular dated 06.02.2014, which is being followed by the schools. However, it is open to the CBSE to conduct an enquiry and find out the books which are costly, voluminous, unscientifically designed and not fit for

school curriculum, published by the private publishers and direct the schools not to buy the books from next year onwards. In the middle of the academic year, the CBSE cannot issue a circular prohibiting usage of private publishers' books. First of all, CBSE has to be blamed for allowing the schools to buy private publishers books, without even verifying the quality, voluminosity and other contents of the books. Moreover, when the 2014 circular itself enables the CBSE schools to purchase books both from NCERT and private publishers, the present impugned order, without giving details, cannot be passed. In view of that there shall be an order of interim stay as prayed for.

5. Though the association is entitled to maintain single writ petition, the association has got about 287 schools as members and by filing a single writ petition, all the schools are going to be benefitted. As it is for an independent cause, by filing a single writ petition and by paying single court fee, the petitioner cannot get orders. Therefore, for permitting the petitioner/association to file this writ petition, the members of the

petitioner/association are directed to pay Rs.1000/- for each member, amounting to Rs.2,87,000/-. The payment has to be made within one week from today, failing which, this Court will pass appropriate orders.”

3. The 1st respondent CBSE has filed a counter affidavit, wherein at paragraph Nos. 4 and 5, it is stated as follows:

“4. At this stage it is pertinent to note that even under the circular dated 29.07.2017 made in CBSE/RO(M)/J.S/NCERT/2017, issued by the CBSE Regional Officer, it was made it clear that the impugned circular alone was withdrawn and however the schools are once again advised to follow the instructions in this matter as per the circular No.20/2014 dated 06.02.2014 (available at www.cbseaff.nic.in) issued by the Affiliation Unit, CBSE Hqtrs, Delhi on the captioned subject under clause “Books in School”. The said clause is reproduced as follows:

Rule 15.1(d);- The school will follow the syllabus on the basis of curriculum prescribed by NCERT/CBSE and text books publishing by NCERT/CBSE for the middle classes as far as practicable or exercise extreme care while selecting

books of private publishers. The content must be scrutinized to preclude any objectionable content that hurts the feelings of any class, community, gender, religious group in Society. If found prescribing books having such content, the school will have to take responsibility of such content.

Provided that the school would put a list of such books prescribed by it on its website with the written declaration duly signed by the Manager and the Principal to the effect that they have gone through the contents of the books prescribed by the school and own the responsibility". The contents of the circular must be noted for needful compliance".

5.It is submitted that under these circumstances, in as much as the impugned circular is withdrawn even on 29.07.2017, nothing survives in the writ petition."

4. The circular dated 29.07.2017 is also produced before this Court and paragraph 1 of the circular is extracted as follows:

"In pursuance of the Interim Order of the Hon'ble High Court of Judicature at Madras in W.P.NO.18900/2017 and W.M.P.No.20412/2017, dated 26.07.2017 in connection with the use of NCERT Text Books by schools affiliated with the Board

under Chennai Region, it is informed that the circular was issued by the Regional office vide letter No.CBSE/RO(M)/JS(PS)/NCERT/2017, dated 06.04.2017, conveying mandatory use of NCERT Text Books by CBSE Schools now **stands cancelled.**

5. Since, the circular dated 06.04.2017 itself has been cancelled subsequent to the interim order dated 26.07.2017 passed by this Court, no further orders are necessary in this writ petition. Hence, the writ petition is closed. No costs. Consequently, connected miscellaneous petitions are closed.

16.08.2017

cgi/nv

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To

1. The Secretary

Central Board of Secondary Education,
Siksha Kendra, No.2, Community Centre,
Preet Vihar, New Delhi 110 092

2. The Director,

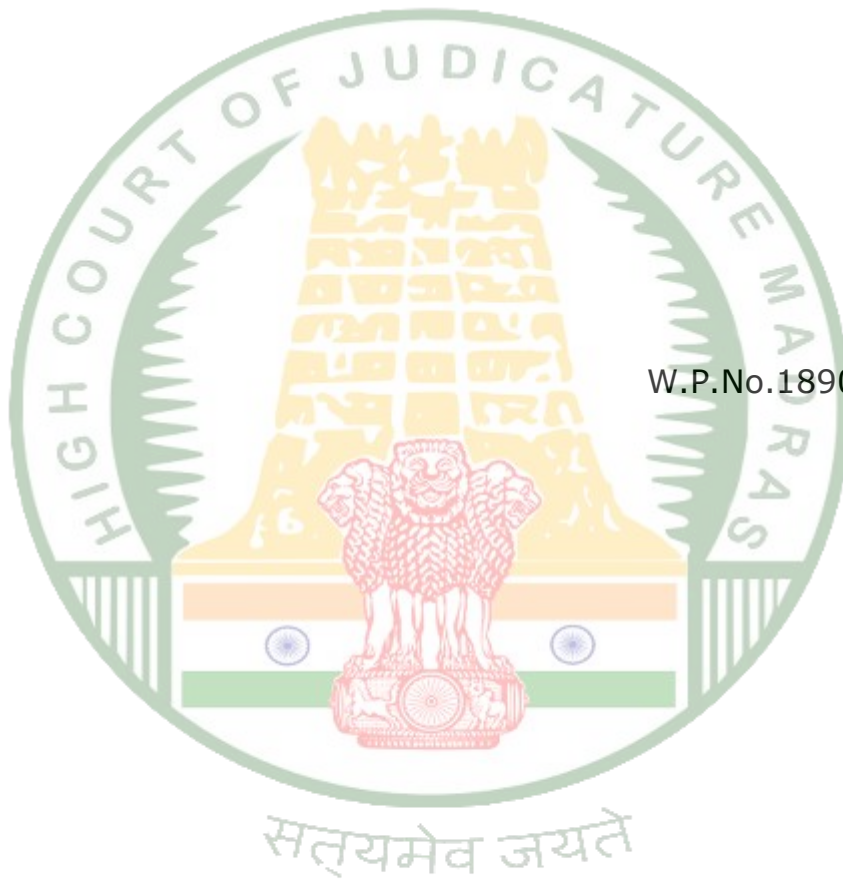
The National Council of Educational
Research and Training (NCERT)
Sri Aurobindo Marg, New Delhi.



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N.KIRUBAKARAN, J

cgi



W.P.No.18900 of 2017

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