

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

CORAM :

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.19801 of 2017

K.Sathashivam

.. Petitioner

Vs.

- 1.The Secretary to Government,
Education Department, Fort St. George, Chennai-9.
- 2.The Director,
Elementary Education Department,
Chennai-600 006.
- 3.The District Collector,Collectorate,
Salem District.
- 4.The District Superintendent of Police,
Nethimadu, Salem District.
- 5.The District Children Welfare (Protection) Officer,
District Children's Welfare (Protection) Office,
484/3 Ponnagar, Jeeva Nagar,
Gorimedu, Salem-08.
- 6.The District Elementary Educational Officer,
Salem.
- 7.Timothy Ravindrar
S/o.S.Timothy,
The Director,
CSI Diocese Coimbatore,
No.256 Race Course, Coimbatore-18.
- 8.T.John Ravikumar,
The Chairman,
Boarding Home Unit-I & II,
Attur Taluk,
Salem District.
- 9.J.Salamon Dhinakaran,
S/o.James Rajarathinam,
The Manager and Property
Maintenance Manager,
Boarding Home Unit I & II,
Attur Taluk, Salem District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to closure the CSI Boarding Home Unit I and II (Boys and Girls) which is situated in Salem - Cuddalore Main Road, Bazar Street, Attur Post and Taluk, Salem District and Railway Station street, Attur Taluk, Salem District as per the order passed by the fifth respondent dated 3.6.2015 made in ROC No.41/A/2015 and secure the children who are boarding in CSI Boarding Home Unit I and II (Boys and Girls) which is situated in Salem-Cuddalore Main Road, Bazaar Street, Attur Post and Taluk, Salem District and Railway station street, Attur Taluk, Salem District based on the petitioner's representation dated 5.6.2017 and reminder representation dated 22.6.2017.

For Petitioner : Mr.M.Mohan Kumar

For Respondents: Mr.R.Vijayakumar, AGP for RR1 to 6
Mr.S.Bharathi Rajan for RR7 to 9

ORDER

(Order of the Court was made by T.S.SIVAGNANAM, J.)

The petitioner has filed this writ petition styled as a Public Interest Litigation praying for a direction to the official respondents to close the CSI Boarding Home Unit I and II in Salem-Cuddalore Main Road, as per the order passed by the fifth respondent, District Children Welfare (Protection) Officer, Salem.

2 The petitioner's case is that the home run by a Diocese (whose office bearers have been impleaded as respondent Nos.7 to 9), has not obtained requisite license under the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'JJ Act'), the condition of the home is deplorable, totally lacking all facilities and it is unsafe for the children. Therefore, the petitioner submitted a representation dated 5.6.2017 and seeks for an appropriate direction to close down the home by considering the said representation.

3 Learned Additional Government Pleader Mr.R.Vijayakumar appearing for the official respondents has produced a written instruction given by the fifth respondent dated 3.8.2017, from which it is seen that already Unit-I has been closed as the building was in a dilapidated condition and so far as Unit-II is concerned, facilities provided by the Diocese is stated to be a hostel facility, for which fee is collected from the boarding children.

4 Learned counsel appearing for the eighth respondent submitted that the present litigation itself is a mala fide exercise done by the petitioner on account of the fact that his brother-in-law one Mr.Alexander Joseph was removed from

the post of Manager of the Home, namely, Unit-I, after which one John Sundarraj was appointed as Manager, but, on account of further illegal actions of Alexander Joseph, John Sundarraj could not take possession of the hostel and the other buildings attached to it and therefore, the CSI Diocese appointed one Vijila Chandrasekar as Manager and she has taken charge. Further, it is submitted that the said Alexander Joseph has lodged a criminal complaint as if the Diocese has taken over his property and has filed a petition before this court being Crl.O.P.No.10757 of 2017 seeking direction to take on file the complaint, register a case, investigate the same, to give police protection and that petition is pending.

5 We called upon the learned counsel for the petitioner as to who is Alexander Joseph. At this juncture, learned counsel for the petitioner submitted that the petitioner is present in Court. The petitioner would state that he is a retired Village Administrative Office and he is trying to espouse the cause of tribal children and to provide them good facility.

6 We are, prima facie, satisfied that the present litigation filed by the petitioner is not a public interest litigation, but a personal interest litigation on account of disputes between the brother-in-law of the petitioner and respondent Diocese and its office bearers. The fifth respondent had stated that Unit-II is fee levying institution and would not fall within the ambit of JJ Act. In this regard, there is a document filed by the petitioner purported to be a circular by the eighth respondent stipulating fee that is payable by the children. Learned counsel for the eighth respondent would submit that the said circular has not been signed by him.

7 Be that as it may, if Unit-II, which is presently functioning, has been taking care of the children, who are in need of care and protection, they are required to obtain registration under the provisions of the JJ Act as learned counsel for Respondents 7 to 9 has stated that they are not collecting any fees from the boarding children. Since Unit-I has already been closed and the building has been demolished, we find that no orders are required to be issued in this writ petition, that too at the behest of the petitioner.

8 For the above reasons, we are not inclined to issue any direction as sought for. The writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Education Department,
Fort St. George, Chennai-9.

2.The Director,
Elementary Education Department,
Chennai-600 006.

3.The District Collector,
Collectorate,
Salem District.

4.The District Superintendent of Police,
Nethimadu,
Salem District.

5.The District Children Welfare (Protection) Officer,
District Children's Welfare (Protection) Office,
484/3 Ponnagar, Jeeva Nagar,
Gorimedu, Salem-08.

6.The District Elementary Educational Officer,
Salem.

+2cc to Mr.S.Bharathirajan, Advocate, S.R.No.56157

+1cc to the Government Pleader, S.R.No.56404

W.P.No.19801 of 2017

SAI (CO)
GN(29/08/2017)

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