IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 30049 of 2016
&
W.M.P. No. 26041 of 2016

Sri Kamaraj Middle School,
Sivandhipuram 627 425
Ambasamudram Taluk,
Tirunelveli District,
rep. by its Manager,
Tmt. M. Mary Rajan ..Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its
Principal Secretary to Govt.,
School Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

3. National Commission for Minority
Educational Institutions,
First Floor, Jeevan Tara Building,
No.5, Sansad Patel Chowk,
New Delhi - 110.

(R3 suo motu impleaded by order of Court
dated 25.07.2017 by NKKJ) ..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 the impugned proceedings issued by the 1st respondent in Letter No. 23349/Thoka-2(1)/ 2015 dated 11/05/2016 to enable the respondent to grant minority status of the petitioner school and to quash the same and consequently direct the respondents to pass orders for conferment of minority institution as Christian Minority with all consequential and other attendant benefits within a time frame to be fixed by this Court.

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For Petitioner :: Mr.G. Sankaran
For Respondents:: Mr.V. Anandmoorthy
Addl. Govt. Pleader for
R1 & R2
Mr.Su. Srinivasan,
Assistant Solicitor General
for R3

O R D E R

The petitioner school is a Government Aided School upto Standards I to V, receiving grant in aid from the State Government and Standards VI to VIII are functioning on self-finance basis. The petitioner school was established with an object of protecting the interest of religious minority people belonging to Christianity and hence, an application was submitted to the respondents seeking conferment of minority status by enclosing all the requisite documents and particulars. Since the application submitted by the petitioner school was not considered, a writ petition was filed in W.P. (MD) No. 344 of 2012 wherein, by order dated 22.07.2014, the writ petition was disposed of directing the respondents to consider the representation of the petitioner school and pass appropriate orders within a stipulated time. Consequent thereupon, the 1st respondent issued proceedings dated 16.02.2015 declining to grant minority status to the petitioner school by referring to certain deficiencies/non-production of documents required. On receipt of the proceedings of the 1st respondent dated 16.02.2015, the petitioner school re-submitted the proposal on 30.03.2015 by complying with all the deficiencies. However, in spite of compliance of all legal requirements by the petitioner school and submission of revised proposal by the petitioner school, the 1st respondent did not pass any orders. Hence, the petitioner school filed another writ petition in W.P. No. 2719 of 2016 seeking a direction to the respondents to pass orders for conferring minority status to the petitioner school as Christian Religious Minority, based on the proposal re-submitted on 30.03.2015 with all consequential and other benefits within a time frame. By order dated 26.02.2016, the said writ petition was disposed of with a direction to the 1st respondent to consider the proposal re-submitted on 30.03.2015 and pass orders, with regard to grant of minority status to the petitioner institution, after affording an opportunity of personal hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of that order. Consequent to the same, the

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1st respondent conducted an enquiry and after receipt of all documents produced by the petitioner, in support of their claim, issued orders dated 11.05.2016 rejecting the claim for grant of minority status. Hence, the present writ petition.

2. Heard Mr.G. Sankaran, learned counsel for the petitioner; Mr.V. Anandhamoorthy, learned Additional Government Pleader for respondents 1 and 2 and Mr.Su. Srinivasan, learned Assistant Solicitor General, who takes notice on behalf of the newly impleaded third respondent.

3. It is submitted by Mr.Su. Srinivasan, learned Assistant Solicitor General, that there is an alternate remedy available to the petitioner by way of an appeal to the 3rd respondent provided under Section 12B(1) of The National Commission for Minority Educational Institutions Act, 2004, in the event of rejection of application of an educational institution for grant of minority status by the authority established by the Central Government or State Government.

4. Section 12B(1) of the aforesaid Act reads as follows:

> "12B. Power of Commission to decide on the minority status of an educational institution: - (1) Without prejduce to the provisions contained in the National Commission for Minorities Act, 1992 (19 of 1992), where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status , the aggrieved person may appeal against such order of the authority to the Commission."

Since the petitioner's application for grant of minority status has been rejected, in the light of the above provision of law, the petitioner has to approach the 3rd respondent by way of an appeal.

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6. Hence, the writ petition is disposed of with liberty to the petitioner school to approach the 3rd respondent Commission by way of an appeal. Though a period of 30 days from the date of communication of the rejection order has been prescribed to prefer an appeal under the relevant provision, extracted supra,, it is made clear that the said time period of 30 days to file an appeal shall run

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from the date of receipt of a copy of this order by the petitioner. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Principal Secretary to Govt.,
School Education Department,
Secretariat, Fort St. George,
Chennai 600 009.

2. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

3. National Commission for Minority
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A.SK(11/03/2019)

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