

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

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THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.43827 of 2016
and

WMP.Nos.37651 and 37652 of 2016

1. Zion Matriculation Higher Secondary School,
Kodaikanal
rep. by its Correspondent,
Dr.Kurian Abraham,
P.O.Box No.24,
Kodaikanal-624 101.

2. Saliha M.
3. Bernice Ann Phillip
4. Gariga Ramakanth
5. Feba Jaflin John
6. Nikhita Achu Praveen
7. John Martin
8. Joshua Charles
9. Stanny Joseph
10. Abijith K.S.
11. Kenaz Ani George
12. Erric Ben Sanjan

.... Petitioners

Vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai-9.

2. The Director of Tamil Nadu Matriculation
Schools, DPI Campus,
College Road, Chennai-6.

3. The Chief Educational Officer,
Dindigal District,
Dindigal.

4. The Inspector of Matriculation Schools,
Dindigal District, Dindigal.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to India for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No.3230/A1/2016 dated 10.11.2016 and quash the same and consequently, direct the respondents to grant exemption to petitioners 2 to 12 under Section 5 of the Tamil Learning Act to write their 10th Standard Public Examinations to be conducted in March, 2017.

For Petitioners : Mr.Yashod Vardhan,
Senior Counsel
for Mr.P.Solomon Francis

For Respondents : Mr.R.Muthukumarasamy,
Advocate General
assisted by Mr.V.Anandhamoorthy,
Additional Government Pleader

O R D E R

The Writ Petition is filed, seeking for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No.3230/A1/2016 dated 10.11.2016 and quash the same and consequently, direct the respondents to grant exemption to the petitioners 2 to 12 under Section 5 of the Tamil Learning Act to write their 10th Standard Public Examinations to be conducted in March, 2017.

2. The case of the petitioners is as follows:

(a) The 1st petitioner Educational Institution was established in the year 1981. It is a self-financing private unaided minority community school run by Abraham Charitable Trust having I to XII Standards. The medium of education is English and Part II language is imparted in Tamil, Hindi and French.

(b) While so, on 09.06.2006 under the recommendations of the 1st respondent, the Government of Tamil Nadu, brought an enactment called, "the Tamil Nadu Learning Act 13 of 2006" wherein provisions were made for learning Tamil as one of the subjects in all the schools in Tamil Nadu in a phased manner and further under Section 3(2) of the said act, students, who do not have English or Tamil as their mother tongue can study their mother tongue as an optional subject. The validity of the said act was upheld by the Apex Court on challenge and the same was implemented all over Tamil Nadu. The same was challenged by the 1st petitioner before the Madurai Bench of this Court in W.P.No.10008/2015 in which stay has been granted to the circular

and the main writ petition is pending till today.

(c) Subsequently, the 1st petitioner filed W.P.No.27318/2014 seeking Mandamus to grant exemption to the students of the petitioner school from following and adhering to the provisions of the Tamil Learning Act and as per the direction of this Court, the respondents have granted exemption to 56 students under the said Act.

(d) Thereafter, the respondents requested the 1st petitioner to send individual representations on behalf of all the 16 students and as directed, the petitioners 2 to 12 had sent their representations dated 20.07.2016. On 13.08.2016, the 4th respondent intimated that 5 students out of the list of 16 cannot be granted exemption as their native State is Tamil Nadu. Thus, they have opted to study Tamil. Thereafter, after a delay of 4 months, the 2nd respondent had intimated the 1st petitioner that the request for exemption for petitioners 2 to 11 has been rejected on the ground that none of the students or their parents are employed out of State or relocated during the current academic year. The position of the 12th petitioner is not known. Hence the present Writ Petition.

3. Heard Mr.Yashod Vardhan, the learned Senior Counsel appearing for the petitioners and Mr.R.Muthukumarasamy, learned Advocate General, assisted by Mr.V.Anandhamoorthy, the learned Additional Government Pleader appearing for the respondents.

4. After elaborate arguments, the learned Advocate General appearing for the respondents has pointed out the order of the Hon'ble First Bench of this Court in W.P.No.43280 of 2016 which is extracted hereunder:

'A fresh government order has been issued dated 2.1.2017. To remove the possibility of any doubt over the interpretation of that government order, the learned Advocate General is in agreement with the understanding of this Court of the Government Order that effectively unless a person has had the benefit of studying Tamil for a period of three academic years before taking the examination, he would not be tested in the Tenth Class in that subject and will be provided exemption.

2. The result of the aforesaid insofar as the present writ petition is concerned is that students at Serial Nos.(1) and (3) on Page (38) of the typed set would be entitled to the exemption, but the student at Serial No.(2), who would have studied Tamil for a period of three academic years before taking the examination, would not be entitled to the exemption.

We, thus, accordingly dispose of the petition

leaving the larger question qua the second student open in view of the petitioners in other petitions seeking to agitate the matter even in respect of the students who have studied Tamil for a period of three academic years. No costs. Consequently, W.M.P.No.37121 of 2016 is closed.''

5. Citing the above decision, the learned Advocate General would clarify that students, who have joined in the VIII Standard, because they have completed 3 years, they could not be granted exemption as they could have learnt the language within that time. The exemption has been granted to the students who are coming from outside the State for studying IX or XI standards. He would further submit that in the case on hand, out of the 10 students i.e. from 2nd petitioner to 11th petitioner, they are not eligible for getting exemption since the 2nd petitioner joined the school in 4th standard and all others have joined in VIII standard which case is not covered by the decision of the First Bench. The only person, namely, 12th petitioner, namely, Erric Ben Sanjan, who has joined in X Standard having his mother tongue as Malayalam, his case has been recommended for exemption under the Tamil Nadu Learning Act 13 of 2006.

6. Recording the said statement of the Advocate General appearing for the respondents, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/
Assistant Registrar(CO)

/true copy/

Sub Assistant Registrar

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To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai-9.
2. The Director of Tamil Nadu Matriculation
Schools, DPI Campus,
College Road, Chennai-6.

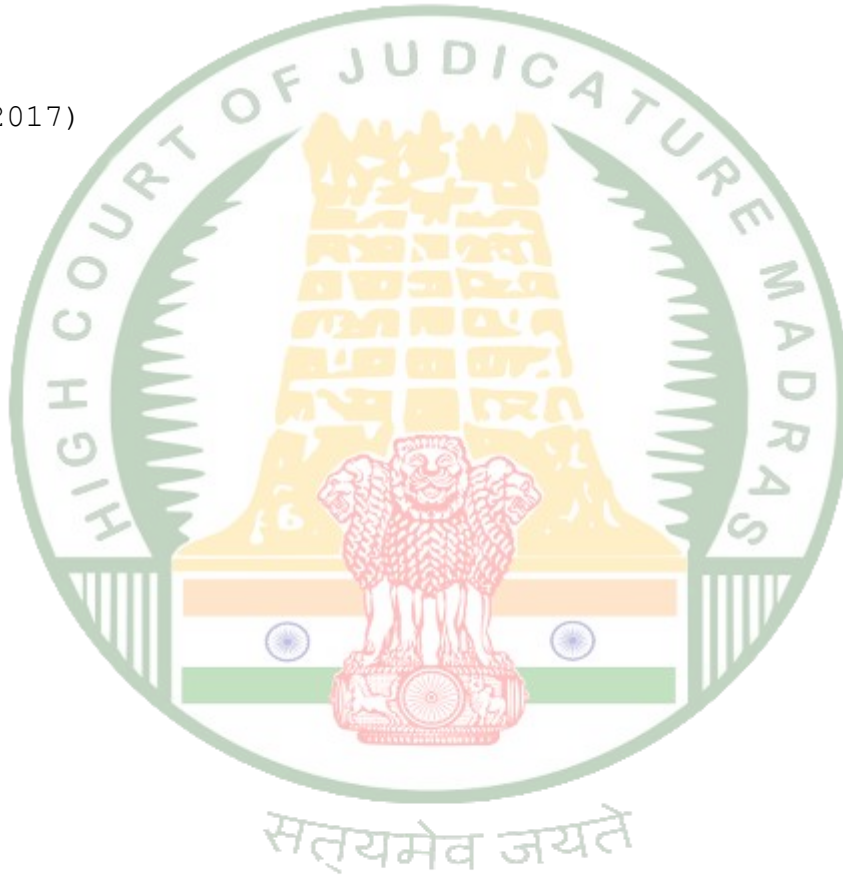
3.The Chief Educational Officer,
Dindigal District,
Dindigal.

4. The Inspector of Matriculation Schools,
Dindigal District, Dindigal.

+1cc to Mr.P.Solomon, Advocate SR.No.4742
+1cc to the Government pleader SR.No.4919.

W.P.No.43827 of 2016

KJ (CO)
GN (08/02/2017)



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