

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.35385 of 2003

G.Pugazhendhi
Correspondent,
Kalaimagal Nursery & Primary School,
Santhoor, Pochamapalli Taluk,
Dharmapuri District.

... Petitioner

Vs.

1. The Director of Rural Development Department,
Chennai - 600 015.
 2. The District Collector,
Dharmapuri District,
Dharmapuri-5.
 3. The Commissioner,
Bargur Panchayat Union,
Bargur, Dharmapuri District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Certiorarified Mandamus to call for the records of the 2nd respondent in Pro.Na.Ka.No.86873/X-1/2002, dated 04.11.2003 and the consequential order of the 3rd respondent in Na.Ka.No.1117/01/A-4 dated 10.11.2003, quash the same and issue consequential directions to the respondents to allow the running of the Nutritious Meal Centre under "Puratchi Thalaivar MGR Nutritious Meals Scheme" in the petitioner school.

For Petitioner : Mr.R.Thamarai Selvan

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the proceedings of the 2nd respondent in Pro.Na.Ka.No.86873/X-1/2002, dated 04.11.2003 and the consequential order of the 3rd respondent vide Na.Ka.No.1117/01/A-4, dated 10.11.2003, and for a consequential

direction to the respondents to allow the running of the Nutritious Meal Centre under "Puratchi Thalaivar MGR Nutritious Meals Scheme" in their School.

2. According to the petitioner, their School is a recognized one, approved by the Director of Elementary Education and the approval was granted initially from 1997 to 2000 for conducting classes from L.K.G to V Standard and thereafter, it was extended from 2000 to 2003. The further approval was granted subsequently, after the filing of the Writ Petition. It is the case of the petitioner that during January 1999, the strength of students was approximately 192, out of which, around 57 students expressed their desire to be provided with nutritious food and permission was sought to introduce Nutritious Meal Scheme under the "Puratchi Thalaivar MGR Nutritious Meal Scheme" in their school. In that regard, necessary application was forwarded to the second respondent and after perusing the same, the same was recommended to the third respondent in the year 1999. The proposal was forwarded and permission to start Nutritious Meal Centre in the petitioner school for the academic year 1997-1998 was accorded and one Jagadisan was appointed as Organiser of the Nutritious Meal Centre. After ratification, the Nutritious Meal Centre was being run in the petitioner school from the year 1998 for only 5 years without any complaints. After being satisfied with the proper functioning of the Nutritious Meal Centre, the authorities permitted to increase the number of beneficiary students from 57 to 108, by an order dated 29.01.2000. That being the case, the petitioner was shocked to receive the communication dated 04.11.2003 issued by the 2nd respondent, which is impugned in the writ petition, ordering winding up of the Nutritious Meal Centre, as the same is without notice.

3. The first respondent has filed counter affidavit stating that initially the petitioner school was conducting classes from LKG to 5th Standard and Noon Meal scheme was introduced in the academic year 1997-98. According to the respondents, orders have been passed for winding up of the Noon Meal Centre in the school and as the petitioner is not a Government Aided School, it does not come under the purview and criteria to run the Noon Meal Centre, as per G.O.Ms.No.438, SW and NMP Department, dated 12.09.1990 and G.O.Ms.No.33, SW and NMP Department, dated 05.02.93. It is their further case that the petitioner's school is purely a private school and it is not eligible for Noon Meal Centre as per the existing Rules issued by the Social Welfare and Noon Meal Programme Department of the Government of Tamil Nadu. It is the further case of the respondents that the petitioner has deliberated the fact that their School is a non-Government aided school, but it is collecting fees from the students. As per Government norms, the Noon Meal Centre cannot

be run in fee levying private schools and when mistake is detected, it has to be set right. It is further stated in the counter that in the approval letter to run the petitioner school, the Director of Elementary School Education has clearly laid down a condition that the petitioner school shall not seek such financial assistance from the Government.

4. Learned counsel for the petitioner contended that the petitioner school was not receiving any grant from the Government and all the students are studying in the school by remitting school fees and that there were about 160 poor students as on the date of the impugned order and closure of the Nutritious Meal Centre in the school would cause hardship to the students. It is his further contention that the petitioner was not afforded an opportunity of hearing and hence, the respondents are estopped from closing the Noon Meal Centre in the petitioner school.

5. Learned Government Advocate submitted that funds to run the Noon Meal Centre comes from the consolidated funds of the State and thus the petitioner's school is not eligible for running the Noon Meal Centre, as it is not a Government Aided School and hence, their request has been rejected.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. This Court, by an order dated 04.12.2003, granted an interim order and the respondents are extending the benefit of Nutritious Meal Scheme to poor students in the petitioner school, who are not paying fees.

8. This Court is not against the Government in feeding poor students. People below poverty line send their children to school, where noon meal is provided, with the fond hope that their children get their noon meal along with education. Such schools are certainly Government-aided schools. But, in the case on hand, the petitioner School is a private school collecting fees from children and simultaneously running Noon Meal Centre for a handful of poor students studying there with the consolidated funds of the State. According to the respondents, extending the Noon-Meal scheme to the petitioner school based on the Government Order mentioned supra, cannot be accepted and it is for the petitioner school to extend Noon Meal scheme, if any, from their own funds and they cannot depend upon the Government.

9. Though it appears to be sound that no opportunity has been given to the petitioner before closing the Noon Meal Centre, admittedly, the petitioner has not come to this Court

with clean hands, as they have sought to extend the benefits of Noon Meal Centre only to a few students, while collecting fees from other students. This fact was not disclosed when the application was made by the petitioner seeking extension of benefits for running a Noon Meal Centre. When there is erroneous extension of benefits to any person muchless the petitioner, the respondent is bound to correct the error if the same is brought for rectification.

10. This Court cannot grant the relief sought by the petitioner on technical grounds, more particularly, when the Government Order is clear that the petitioner is not entitled to any relief when it is not a Government-aided school. By means of an interim order, the petitioner had availed the benefit of the Noon Meal Scheme for more than 15 years. Hence, this Court finds no reason to afford an opportunity of hearing to the petitioner, when he has suppressed the fact that it is a non-aided school and this Writ Petition is liable to be dismissed.

Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected W.P.M.P.No.43002 of 2003 and W.V.M.P No.1045 of 2006 are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dn/aeb

To:

1. The Director of Rural Development Dept.,
Chennai - 600 015.
2. The District Collector,
Dharmapuri District.
3. The Commissioner,
Bargur Panchayat Union,
Bargur, Dharmapuri District.

+1cc to Mr.R.Thamarai Selvan, Advocate, S.R.No.50914
+1cc to the Government Pleader, S.R.No.52553

W.P.No.35385 of 2003

BR(CO)
CA(18/09/2017)