



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.443 of 2014

and

M.P. (MD) Nos.2 and 3 of 2014

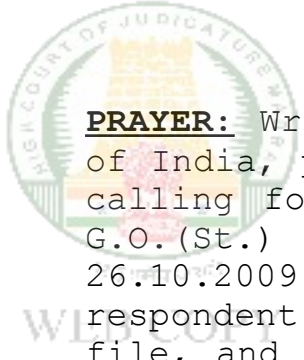
D.S.Suresh

..Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Director of Government Examinations
Directorate of School Education,
College Road,
Chennai - 600 006.
4. The Chief Educational Officer,
Kanyakumari District,
At Nagercoil,
Kanyakumari District.
5. The District Educational Officer,
Kuzhithurai,
Kanyakumari District.
6. Sree Devi Girl's Higher Secondary School,
Kollemoode,
Kollemoode Post,
Kanyakumari Post,
Kanyakumari District - 629 160,
Represented by its Secretary.

..Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent, pertaining to its G.O.(St.) No.277, School Education (Vi E) Department, dated 26.10.2009 on its file, and the consequential order of the 3rd respondent in Na.Ka.No.18/Mandanam/2013 dated 14.12.2013 on his file, and quash the said G.O., insofar as the same directs in its paragraph 4 that the teaching of the subject - group of Agricultural Practices is to be done in Tamil alone, and the said order of the 3rd respondent, directing respondents 1 to 5 to issue all text books and question papers in Malayalam language to the Malayalam medium students of Plus One and Plus Two classes of the 6th respondent School for the general subjects of Geography and Political Science and Vocational subject group of Agricultural Practices.

For Petitioner	: Mr.K.N.Thampi
For R1 to R5	: Mr.M.Govindan
	Special Government Pleader
For R6	: Mr.T.Cibi Chakraborty

ORDER

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

Can the State decline to discharge the constitutional obligation cast on it under Article 30 of the Constitution of India, citing administrative difficulties in the question that demands a judicial response in this writ petition.

2.The petitioner is the president of the Parents and Teachers Association of the 6th respondent School. In the said School, girls students are studying in +1 and +2 in Malayalam medium. It is an aided institution. It is also a linguistic Minority. It is the grievance of the Writ Petitioner that in respect of the general subjects of geography and political science as well as vocational subject group of agricultural practices, the malayalam medium students are not getting text books and question papers in malayalam language. He would contend that G.O.(St) No.277 School Department dated 26.10.2009 as well as the consequential order of the third respondent dated 14.12.2013 deserve to be quashed insofar as the same directed in paragraph 4 that the teaching of subject group of agricultural practices is to be done in Tamil alone.

3.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the Government.

<https://hcservices.ecourts.gov.in/hcservices/>
 4.On behalf of the respondents 1 to 5, a counter affidavit has been filed. A very strange plea has been taken in paragraph 4



of the said counter affidavit. It appears to be the stand of the Government that this petition, which has been filed for the benefit of some 32 students cannot be said to be in the interest of public at large. We summarily reject this plea. The 6th respondent school is a recognized and aided institution. It is being managed by a linguistic minority. Therefore, a petition filed in the interest of students studying in such an institution, cannot be said to be not in public interest. The official respondents are pleading difficulties in issuing textbooks and preparation of question paper in malayalam in view of the limited number of students.

5. We are not in a position to appreciate the stand taken by the department. So long as there are educational institutions which have been allowed to run, it is the duty of the Government as well as the Education Department to fully and effectively cater to the educational needs of the students studying therein. More than anything else, Article 30 of the Constitution of India states that all minorities based on religion or language, shall have a right to establish and administer the Educational Institutions on their choice. The said constitutional provision further mandates that the State shall not in granting aid discriminate against any educational institution on the ground that it is under the management of a minority whether based on religion or language. In the Counter affidavit, it is stated that for production of question paper in malayalam, the department has to rely upon the teachers working in the same School for translation and for correction and that in such circumstances secrecy cannot be maintained and that it would enable those from few students to take undue advantage and obtain more marks than other students. Such a stand is inherently unconstitutional.

6. The Writ Petitioner filed a detailed rejoinder, controverting the various averments set out in the counter affidavit filed by the official respondents. At the risk and cost of repetition, this Court would observe that it is the duty of the education department to extend all facilities to the 6th respondent School by way of supplying textbooks as well as question papers in malayalam language. If this duty cannot be discharged, then Article 30 of the Constitution of India becomes meaningless. With the above directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

1.The Secretary,
The Government of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai - 600 009.

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

3.The Director of Government Examinations
Directorate of School Education,
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4.The Chief Educational Officer,
Kanyakumari District,
At Nagercoil,
Kanyakumari District.

5.The District Educational Officer,
Kuzhithurai,
Kanyakumari District.

+ 1 cc TO Mr.K.N.Thampi , Advocate in SR No. 73800

mm

AE/GT/SAR2/06.11.2017/4P/7C

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