



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.08.2017**

CORAM:

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and**

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10885 of 2017

and

W.M.P. (MD) .Nos.8314 and 8315 of 2017

S.Selva Gomathi

.. Petitioner

Vs.

1. The Principal Secretary,
School Education Department,
Secretariat, Chennai 600 009.
2. The Chairperson,
The Tamil Nadu Commission For Protection of Child Rights,
No.183/1, Periyar EVR Road,
Poonamalli High Road,
Kilpauk, Chennai - 600 010.
3. The Director,
Director of Social Defence,
No.300, Purasiawakkam High Road,
Chennai 600 010.
4. The District Collector,
District Collector Office,
Madurai 625 020.
5. The Regional Deputy Director,
Department of Social Welfare,
No.5, Second Floor, 'D'Block, Besant Road,
Baskar Complex,
Chinna Chokkikulam, Madurai 625 002.
6. The Chairman,
The District Child Welfare Committee,
Kennat Nagar, Madurai District.
7. The Protection Officer,
District Child Protection Unit,
Plot No.12, Commercial Complex,
Kartchik Nagar, Pasupathi Nagar Extension,
Post & Telegraph Nagar, Madurai 625 017.



8. The Superintendent,
Annai Sathya Government Childrens' Home,
Dr.Thangaraj Salai, Near Gandhi Museum,
Madurai 625 020.

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9. The Corporation of Madurai,
Rep. by the Commissioner, Madurai.
[R-9 impleaded *suo motu* vide order
dated 09.06.2017 in W.P.(MD).No.10885 of 2017].

10. The Secretary to Government,
Social Welfare Department,
Secretariat,
Chennai.

: Respondents

[R-10 impleaded *suo motu* vide order
dated 02.08.2017 in W.P.(MD).No.10885 of 2017].

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 8 to allow 117 girl students to stay at the eighth respondent Home by establishing the infrastructure for the purpose of continuing school education at the Kakkai Padiniyar School, Madurai.

For Petitioner : Mr.R.Karunanidhi
For Respondents 1to8&10 : Mr.M.Govindan,
Special Government Pleader
For Respondent No.9 : Mr.R.Murali,
Standing Counsel for Corporation

O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

This Writ Petition by Ms.S.Selva Gomathi, Deputy Director, Society for Community Organisation Trust, seeks a direction to the respondents 1 to 8 to allow 117 girl students to stay at Annai Sathya Government Childrens' Home, Madurai, by providing the necessary infrastructural facilities so as to enable the students to continue their school education at Kakkai Padiniyar School, Madurai.

2. According to the petitioner, on account of the inability to provide the necessary institutional and infrastructural facilities, the eight respondent sent back large number of students to several other Homes. Similarly, in view of the
<https://hc.services.courts.gov.in/hc-services/>
inability of the eighth respondent to arrange sufficient space, it would not be possible to admit new students in this academic year.



3. The information furnished before us indicates that originally, there were 114 students residing in the Government Home in question. The Juvenile Justice (Care and Protection of Children) Act, 2000, provides that each student should have a space of 40 square feet. Since the area, as per the statute, was not available, the Superintendent, Annai Sathya Government Children Home was constrained to send 79 students out of 114 to other Government Homes and retained only 35 students. Similarly, on account of non-availability of sufficient accommodation, admission could not be made in this academic year.

4. The eighth respondent appeared during the last hearing and informed us that in view of the statutory prescription that the Home must possess prescribed area, new admission could not be made.

5. Since sufficient land and buildings are available with the Madurai Corporation, we directed the learned Standing Counsel for the Corporation to instruct the Commissioner, Madurai Corporation to inspect the available building and to ascertain the feasibility of allotment of suitable building to Annai Sathya Government Children Home.

6. The Commissioner, Madurai Corporation, pursuant to our direction, took swift action by inspecting the land and vacant buildings in the possession of Local Body. The Madurai Corporation is in possession of 4^{1/2} acres of land at Survey No.28, Block No.129, near Gandhi Museum, Madurai. There are few asbestos buildings in the said property. It would not be possible to put RCC roof to the buildings. According to the Commissioner, the best course is to construct new building for the Home.

7. Since Government is the authority to take a decision for allotment of land, the Secretary to Government, Social Welfare Department, Chennai was impleaded as a party to the Writ Petition.

8. The respondents 5 and 8 are present in Court today.

9. We have heard the learned counsel appearing for the petitioner, the learned Special Government Pleader for the respondents 1 to 8 and the learned Standing Counsel for the Madurai Corporation.

10. The materials available on record indicate that the Madurai Corporation is in possession of 4^{1/2} acres of land near Gandhi Museum, Madurai. It is very near to the Schools. Annai Sathya Government Children Home is catering to the needs of poor students. The students admitted in the said Home are pursuing studies in Government schools at Kakkai Padiniyar School, Madurai. We are informed that after completion of their study, students would be relieved from the Home. The Home used to admit students every



year. Because of the non-availability of sufficient accommodation, the Home is not in a position to admit new students commencing from 2016-2017.

11. The land owned by the Madurai Corporation is lying vacant. The land should be used for a larger public purpose. It is the responsibility of the State to provide accommodation to the poor students so as to enable them to pursue studies in Government Institutions.

12. The Government of Tamil Nadu has already sanctioned a sum of Rs.9.47 Crores for establishing Annai Sathya Government Home at Salem. The poor students of Madurai must also be provided sufficient accommodation, like the students of Salem.

13. The present condition of the Home at Madurai is very poor. We are informed that there is no proper facility for the poor girl students. They are compelled to stay in the Home on account of their poor financial background.

14. The Courts must intervene to help and protect the poor, depressed and weaker sections of the Society, in case they are neglected by the State. This is a fit case for such intervention. We, therefore, issue the following directions:

"(a) We direct the District Collector, Madurai, to take over 1.5 acres of land, out of 4^{1/2} acres of land at Survey No.28, Block No.129, situated near Gandhi Museum, Madurai, from the Madurai Corporation and allot the same to the Department of Social Welfare, Government of Tamil Nadu, within four weeks from today and report it to the tenth respondent for sanctioning funds.

(b) The Government of Tamil Nadu, represented by its Secretary to Government, Social Welfare Department, is directed to sanction necessary funds for the construction of a suitable building for Annai Sathya Government Children Home, on the same line, in which amount was sanctioned to the Government Home at Salem. Such exercise shall be completed, within a period of three months.

(c) The Government must ensure that the construction of the building is commenced in this financial year itself and completed as expeditiously as possible so as to enable the eighth respondent to admit students with effect from the next academic year.



(d) The Regional Deputy Director, Social Defence Department, Madurai, is directed to send a proposal to the Government immediately, after handing over the land by the District Collector, Madurai and take necessary follow-up action."

15. We place on record our deep appreciation for the swift action taken by Dr.Aneesh Sekhar, I.A.S., Commissioner, Madurai Corporation and Mr.R.Murali, learned Standing Counsel for the Madurai Corporation, for visiting the Home, pursuant to our order and informing the Court about the present condition of the building. We also place on record our appreciation for the assistance rendered by Mrs.Renuga, Superintendent, Annai Sathya Government Children Home, Madurai.

16. Since the need for providing accommodation to the poor students is an emergent one, we direct the District Collector and the Government of Tamil Nadu, to do the needful, as expeditiously as possible and in the light of the above directions including the time schedule.

17. The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal Secretary,
School Education Department,
Secretariat, Chennai 600 009.
2. The Chairperson,
The Tamil Nadu Commission For Protection of Child Rights,
No.183/1, Periyar EVR Road,
Poonamalli High Road,
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3. The Director,
Director of Social Defence,
No.300, Purasiawakkam High Road,
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4. The District Collector,
District Collector Office,
Madurai 625 020.



5. The Regional Deputy Director,
Department of Social Welfare,
No.5, Second Floor, 'D'Block, Besant Raod,
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6. The Chairman,
The District Child Welfare Committee,
Kennat Nagar, Madurai District.
7. The Protection Officer,
District Child Protection Unit,
Plot No.12, Commercial Complex,
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Post & Telegraph Nagar, Madurai 625 017.
8. The Superintendent,
Annai Sathya Government Childrens' Home,
Dr.Thangaraj Salai, Near Gandhi Museum,
Madurai 625 020.
9. The Commissioner,
Corporation of Madurai,
Madurai.
10. The Secretary to Government,
Social Welfare Department,
Secretariat,
Chennai.

+1cc to Mr.R.Murali, Advocate SR.No.70717
+1cc to The Spl.Government Pleader Sr.No.70642

NB/SML

VB/SV/AA/SAR4/08/08/2017/6P/13C

ORDER MADE IN
W.P. (MD) No.10885 of 2017
Dated: 03.08.2017