



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.01.2017

CORAM

THE HONOURABLE MR. JUSTICE K. RAVICHANDRA BAABU

W.P(MD) No. 14270 of 2016

and W.M.P. (MD) Nos. 10592 and 10593 of 2017

WEB COPY

Caldwell Higher Secondary School,
Beach Road,
Thoothukudi,
Represented by its Head Master

... Petitioner

vs.

1. The Government of India
Represented by its
Defence Secretary
Department of Defence
Ministry of Defence
101-A, South Block,
New Delhi.

2. The Government of Tamil Nadu
Represented by its Secretary,
Department of School Education,
Secretariat, Fort St. George,
Chennai - 9.

3. The Deputy Director General
National Cadet Corps (TN, P & AN),
Fort St. George, Chennai - 9.

4. The Director,
NCC Naval Unit, Secretariat,
Fort St. George, Chennai - 600 009.

5. The Group Commander,
NCC GP HQS PT Rajan 6th Street,
Narimedu, Madurai - 2.

6. The Commanding Officer,
3(TN) Naval Unit NCC - A,
South Cotton Road,
Lion's Town, Tuticorin - 628 002.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorari and Mandamus calling for the records pertaining to the order passed by the respondent in his proceedings in NO.350/P&C, dated 17.05.2016 and quash the same as illegal and consequently direct the respondents to continue the service to Troop No.30 of the petitioner's school through NCC without any disbandment.



WEB COPY

For Petitioner : Mr. T.A.Ebenezer
For R1, R3 & R4 : Mr. P.Paul Pandi
For R2 : Mr.A.Muthukaruppan
Additional Government Pleader
For R5 & R6 : Mr.K.K.Samy

O R D E R

This writ petition is filed challenging the order passed by the sixth respondent in withdrawing the NCC Unit at the petitioner school.

2. Heard the learned counsel for the petitioner school and the learned Additional Government Pleader appearing for the second respondent and the learned counsel appearing for the first, third and fourth respondents and the learned counsel appearing for the fifth and sixth respondents.

3. Though this writ petition is filed by the petitioner school questioning the impugned withdrawal order on very many grounds touching upon the merits of the matter, this Court is inclined to set aside the impugned order on the sole ground that the same has not disclosed any reason or justification for withdrawing the NCC Unit from the petitioner school. Impugned order is a single line order passed only by stating that approval has been accorded by the NCC Directorate for the withdrawal of the Junior Division Troop with effect from 5th May 2016.

4. Though the learned counsel appearing for the sixth respondent justified the impugned order by inviting this Court's attention to various reasons stated in the counter affidavit, also by contending that the Show Cause Notice issued to the petitioner disclosed the reasons for the proposed withdrawal, I am not convinced to accept those contentions for the simple reason that the impugned order must reflect the reasons and the grounds for withdrawal of NCC Unit on the face of it.

5. Needless to say that the reasons set out in the Show Cause Notice cannot be construed as the reasons for passing the impugned order, since those reasons set out in the Show Cause Notice are only *prima facie* view of the authority, who issued the Show Cause Notice and not the final conclusion itself.

6. When an explanation was offered to the Show Cause Notice, certainly, the authority, who passed the impugned order, should discuss the reasons set out in the Show Cause Notice and explanation offered by the noticee and thereafter independently should assign the reasons for passing the impugned order. Such exercise is totally absent in this case. Therefore, I find every justification in allowing this writ petition by setting aside the



impugned order.

7. Accordingly, the impugned order is set aside. The matter is remitted back to the third and sixth respondents to pass a fresh order.

8. The petitioner is at liberty to file fresh explanation, if any, within a period of two weeks from the date of receipt of copy of this order. On receipt of such explanation, the respondents 3 and 6 shall pass a fresh order on merits and in accordance with law after considering the said explanation. Such exercise shall be done by the respondents 3 and 6 within a period of eight weeks thereafter.

9. In the result, this writ petition is allowed as indicated above. No costs. Consequently, connected W.M.P.(MD) Nos.10592 and 10593 of 2016 are closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To,

1. The Defence Secretary, Department of Defence, Ministry of Defence, Government of India 101-A, South Block, New Delhi.

2. The Secretary, Department of School Education, The Government of Tamil Nadu, Secretariat, Fort St. George, Chennai - 9.

3. The Deputy Director General, National Cadet Corps (TN, P & AN), Fort St. George, Chennai - 9.

4. The Director, NCC Naval Unit, Secretariat, Fort St. George, Chennai - 600 009.

5. The Group Commander, NCC GP HQS PT Rajan 6th Street, Narimedu, Madurai - 2.

6. The Commanding Officer, 3 (TN) Naval Unit NCC - A, South Cotton Road, Lion's Town, Tuticorin - 628 002.

+1cc to Mr. P. Paulpandi, Advocate, SR.2043.

+1cc to Mr. T. P. Ebenezer, Advocate, SR.2088

+1cc to Mr. K. K. Samy, Advocate, SR 1949

+1cc to Mr. Special Government pleader, SR.2230.

Cm

KK-EM-SAR.1/11.1.17/3P/11C