



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE A.SELVAM  
AND  
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

Writ Petition (MD) No.9017 of 2017  
and  
W.M.P. (MD) .Nos.6885 to 6887 and 7446 of 2017

S.Alagar

... Petitioner

Vs.

1. The Government of India  
by its Secretary, Ministry of Defence  
New Delhi.
2. The Heavy Alloy Penetrator Project  
Government of India  
by its Senior General Manager  
Heavy Alloy Penetrator Project  
Ministry of Defence, Trichy-25.
3. The Director of Matriculation School  
College Road, Chennai-34.
4. The Inspector of Matriculation School  
Trichy.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the proceedings of the second respondent No.11123/Admin/HAPP dated 03.04.2017 and quash the same as illegal and direct the first and second respondent to run the H.A.P.E Paramahansa Matriculation School, by the Ordnance Factory Board or State Government as government school.

|                       |                                                         |
|-----------------------|---------------------------------------------------------|
| For Petitioner        | : Mr.S.Muthukrishnan                                    |
| For Respondents 1 & 2 | : Mr.G.R.Swaminathan<br>Addl.Solicitor General of India |
| For Respondents 3 & 4 | : Mr.M.Govindan<br>Special Government Pleader           |

**ORDER**

(Order of the Court was delivered by Mr.N.AUTHINATHAN.J.,)

The petitioner has come up with the writ petition to call for the records relating to the proceedings of the second respondent No.11123/Admin/HAPP dated 03.04.2017 and quash the same as illegal and direct the first and second respondents to run the H.A.P.E Paramahansa Matriculation School, by the Ordnance Factory Board or State Government as government school.

2.Heavy Alloy Penetrator Project (HAPP), a Joint Venture of Department of Research and Production, Ministry of Defence, Government of India/Respondent No.2 was started in the year 1988. The Project Co-ordinator of the said project entered into an agreement on 30.06.1988 with Sri Ramakrishna Tapovanam, Tirupparaithurai, Tiruchirappalli District to run a matriculation school in the township of the factory to impart education to the children of the employees working in the project. Tapovanam started a matriculation school under the name of 'Sri Ramakrishna Tapovanam'. The administration of the school was handed over to Sri Ramakrishna Tapovanam, Tirupparaithurai, Tiruchirappalli District. However, the entire expenditure for running the school and infrastructural facilities were provided by the second respondent. The agreement for running the school, entered into between the second respondent and Sri Ramakrishna Tapovanam, Tirupparaithurai, Tiruchirappalli District, expired on 30.06.2008. The Ministry of Defence/first respondent by its letter dated 06.12.2006 and 23.03.2007 has intimated that due to financial constraints, it would not be possible to renew the contract beyond 30.06.2008 and advised to hand over the school to any charitable institution, who agrees to run the school and on self financing basis, as per land lease policy or close down the school on 30.06.2008. Accordingly, the second respondent issued a public notice on 03.04.2007 inviting applications from well established educational societies/institutions to run the school in question. Subsequently, another notification dated 04.06.2007 was issued inviting applications for running the school.

3.Challenging the above mentioned notification dated 04.06.2007, the teachers of the HAPF Paramahansa Matriculation School approached this Court by way of a writ petition in W.P. (MD).No.12110 of 2009 and for a direction to the first respondent to take over the school and absorb the present staff of the school. A learned Single Judge of this Court dismissed the writ petition. He held as follows:

"Therefore, the second respondent himself is not in a position to continue running of the school, in view of the financial constraints, courts cannot compel the management to incur expenditure."



The writ petitioners preferred an appeal in W.A.(MD).No.165 of 2017. A Division Bench of this Court agreed with the views expressed by the learned Single Judge to the effect that the first respondent/Government of India cannot be compelled to take over the school. The writ appeal was dismissed on 21.04.2017.

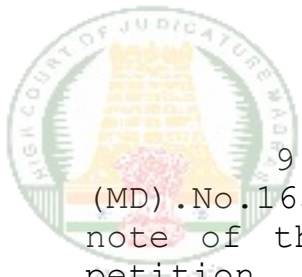
4. Thereafter, the present Public Interest Litigation has been filed. The present petition is filed claiming a right for the locals to get their children educated at the school in question. He made a challenge to the above mentioned prior notification dated 03.04.2007 inviting applications from interested persons to run the school. This notification is subject to the outcome of above mentioned writ appeal.

5. It is submitted by the learned counsel for the petitioner that the impugned notification violates the fundamental right to education guaranteed under Article 21-A of the Constitution of India. He would further submit that the locals are entitled to get their children educated at a reasonable cost in the school in question.

6. The learned Additional Solicitor General of India, appearing for the respondents 1 & 2 would submit that the present writ petition has been filed based on identical set of facts and raising similar contentions as are raised in the above mentioned W.P.(MD).No.12110 of 2009 and that therefore, the writ petition is liable to be dismissed.

7. It emerges from the materials available on record that the school was established by the second respondent/HAPP in 1988 for the benefit of the children of the second respondent employees. The administration of the school was handed over to Sri Ramakrishna Tapovanam in 1988. However, the entire expenditure for running the school was borne by HAPP. They have provided infrastructural facilities also. It is submitted that the employees of HAPP admitted their children to Kendriya Vidyalaya, situated in HAPP township. The strength of the school in question is around 400 from classes I to X. The management of HAPP decided to stop funding the school, as their employees started to admit their children to Kendriya Vidyalaya.

8. It is not in dispute that the agreement to run the school entered into between HAPP and Sri Ramakrishna Tapovanam, Thirupparaithurai, Trichirappalli District expired on 30.06.2008. HAPP issued a notification on 04.06.2007 inviting applications from reputed institutions to run the school in question. The writ petition challenging the said notification dated 04.06.2007 was dismissed and the appeal preferred against the dismissal order was also dismissed. The Division Bench has already held that the first respondent cannot be compelled to take over the school.



9.A reading of the order of the Division Bench in W.A. (MD).No.165 of 2017 would show that the Division Bench has taken note of the notification dated 03.04.2017 impugned in this writ petition. It extended time for submission of applications for running the school till 11.05.2017. The Division Bench has already held that the first respondent cannot be compelled to take over the school. The validity of the earlier identical notification was upheld by the Division Bench. Therefore, we are not inclined to entertain the challenge made to the subsequent notification, which is impugned in the writ petition.

10.It is true that the State is under constitutional mandate to provide education for the benefit of citizens. However, as per the impugned notification, dated 03.04.2017, the second respondent has taken steps only to continue the existing school upto X standard from the academic year commencing from June 2017. There is no attempt to close the school. Therefore, we are of the considered view that the impugned notification does not in any manner violate the right of children to free and compulsory education. We do not see any infraction of Article 21-A of Constitution of India. Collection of fee by schools in Tamil Nadu is regulated by the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009. Therefore, the contention of the petitioner that the students have to pay exorbitant fees, if any other institution is permitted to run the school, pursuant to the impugned notification, cannot be accepted.

11.For the reasons stated above, the writ petition is liable to be dismissed and accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-  
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary, Ministry of Defence  
Government of India  
New Delhi.
2. The Senior General Manager  
Heavy Alloy Penetrator Project  
Government of India  
Heavy Alloy Penetrator Project  
Ministry of Defence, Trichy-25.



3. The Director of Matriculation School  
College Road, Chennai-34.

4. The Inspector of Matriculation School  
Trichy.

+1cc to Mr.S.Muthukrishnan, Advocate Sr.No.58692

+1cc to Mr.G.R.Swaminathan, Advocate Sr.No.58673

VS

VB/KKR/SAR4/14.06.2017/5P/7C

**order made in**

**Writ Petition (MD) No.9017 of 2017**

**06.06.2017**