



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.100 of 2013

The Secretary,
Karapettai Nadar Girls Higher Secondary School,
Tuticorin, Tuticorin District. ... Appellant/Writ Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. 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 Chief Educational Officer,
Tuticorin, Tuticorin District.

4.The District Educational Officer,
Tuticorin, Tuticorin District. ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD)No.9285 of 2009 dated 03.10.2012.

Prayer in WP(MD)No. 9285/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd respondent director of School Education in Na.Ka.no. 48309/D2/E1/08 dated 29/06/2009 quash the same and further direct the respondents herein to include the English medium sections of the petitioner school for the purpose assessing the staff-requirement and disbursing the of grant-in-aid.



WEB COPY

For Appellant

: Mr. ISAAC Mohanlal
Senior Counsel for
Mr. Xavier Rajini

For Respondents

: Mr. M. Murugan
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by **M.M. SUNDRESH, J**)

The writ appeal is directed against the order of the learned Single Judge dated 05.10.2016, passed in W.P.(MD) No.9285 of 2009.

2.The appellant was running a school originally consisting of Tamil Medium Sections. A decision was made in the year 1998 to have one section as English Medium. The appellant school was receiving grant-in-aid. At that point of time, there was no difference between Tamil medium or English medium for grand-in-aid.

3.The appellant filed W.P.No.5419 of 1988, in which the following interim order was passed:

"2.After hearing both the parties, the petitioner is permitted to open one English Medium section in standards VI to X in Karapettai Nadar Girls' Higher Secondary School, Tuticorin for the academic year 1988-89 onwards. But this permission will be on condition that in the other sections, the instructions shall be given through Tamil Medium. A similar order has been passed in W.M.P.No.5545 of 1988 in W.P.No.3785 of 1988 by Sivasubramaniam, J. Following the said order, I am passing this order."

In compliance with the interim order, the Director of School Education passed the following order:

"The High Court of Judicature at Madras in W.M.P.No.7953 and 7954 of 1988 in W.P.No.5419/88 have issued orders to give permission to open one English medium section in standard VI to X in Karapettai Nadar Girls' Higher Secondary School, Tuticorin from the academic year 1988-89 onwards with the condition that in the other section the instructions should be given in Tamil.

<https://hcservices.ecourts.gov.in/hcservices/> In view of the court orders, temporary permission is granted to start one English medium section by



converting one of the existing Tamil Medium sections in standard VI to X from the academic year 1988-89 in Karapettai Nadar Girls' Higher secondary school, Tuticorin, with the condition that in the other section, the instruction will be given in Tamil without prejudice to the court orders pending in W.P.No.5419/88."

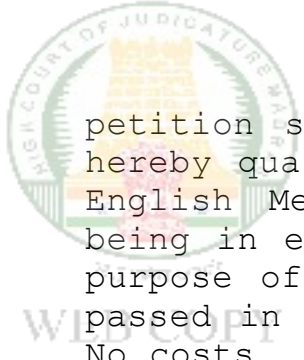
The writ petition was dismissed as infructuous on 27.02.1997. In the meanwhile, G.O.Ms.No.601 Education D1 Department dated 21.06.1993, has been issued stating that all the schools which are desirous of opening of English Medium shall open them only as new sections and those existing Tamil Medium should not be allowed to be converted or closed. The appellant was allowed to run the English Medium Sections with aid. This went on for years. Suddenly, the respondent No.2 woke up in the year 2009 and passed the impugned order on 29.06.2009, holding that the appellant is not entitled for the aid as per Government Order in G.O.Ms.No.601 Education D1 Department dated 21.06.1993.

4.As rightly submitted by the learned Senior Counsel appearing for the appellant, the appellant has started the English Medium School in the year 1988 itself. Therefore, the order relied upon does not have any bearing. Secondly, there was a grant irrespective of the medium at the time when the appellant started one section in English Medium. Thirdly, the policy decision to dispense with the grant for the English Medium schools came thereafter by applying it from the year 1992-1993 onwards.

5.From the above, we are of the view that at the time when the appellant made a decision to convert one section in each class into English Medium, the appellant's entitlement for grant-in-aid was not in question. Secondly, the Government Order relied upon in the impugned order does not apply retrospectively. Further more, the decision to dispense with the grant-in-aid has come into being after the appellant has started first section in English Medium. Perhaps the appellant and the officials of respondents took it for granted that the grant-in-aid is entitled to be continued till passing of the impugned order. This may be also for the reason that those institutions that imparting education on the English Medium similarly placed that of the appellant are being continued to be in grant-in-aid till now.

6.Therefore, looking from any perspective, we are of the view that the appellant is entitled to succeed. The learned Single Judge has dismissed the writ petition by applying G.O.Ms.No.601 Education D1 Department dated 21.06.1993, which in our considered view cannot be sustained being subsequent.

<https://hcservices.ecourts.gov.in/hcservices/> 7. Accordingly, considering the above said peculiar facts, we are inclined to set aside the impugned order in the writ appeal as well as the order of the learned Single Judge. The writ



petition stands allowed. The impugned order dated 29.06.2009, is hereby quashed with a direction to the respondents to include the English Medium sections from 6th standard to 10th standard as being in existence and entitled for grant-in-aid and also for the purpose of staff assessment not withstanding the Government Order passed in G.O.Ms.No.601 Education D1 Department dated 21.06.1993. No costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Secretary to 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 Chief Educational Officer,
Tuticorin, Tuticorin District.
- 4.The District Educational Officer,
Tuticorin, Tuticorin District.

+1cc to Mr.Xavier Rajini, Advocate Sr.No.66544

SJ

VB/MR/KKR/SAR3/28.07.2017/4P/6C

W.A. (MD) No.100 of 2013
19.07.2017