



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.(MD) No.8611 of 2013 &
M.P.(MD).Nos.1 & 2 of 2013

Shanthinikethan Higher Secondary School
Represented by its Corespondent
Amilikkai- 624 612,
Oddanchatran Taluk,
Dindigul District.

...Petitioner

Vs.

1.Union of India,
Represented its Secretary to the
Government of Education, New Delhi.

2.The Government of Tamil Nadu,
Rep. By the Secretary,
Department of School Education,
Fort St. George, Madras -600 009.

3.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

4.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.

5.The Chief Educational Officer,
Sarva Shiksha Abhiyan
Dindigul District.

6.The Supervisor
Block Resource Centre,
Oddanchatran Taluk, Dindigul District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the
Constitution of India to issue Writ of Declaration or any other
appropriate writ of order, declaring Section 21(2)(b), 22(1)(2),



38(2)(j)(k) of the Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009) read with Rules 14 and 15 of the Tamil Nadu Right of Children to Free and Compulsory Education Rules, 2011 and the consequent G.O.Ms.No.213, dated 26.12.2011, School Education (C2) Department, as ultra-vires, unconstitutional, and inapplicable to the school of the member educational agencies of the petitioner.

For Petitioner : Mrs.S.Srimathy
For Respondents : Mr.N.Ravichandran for R1
CGSPC
Mr.S.Chandrasekar
Government Advocate for R2 to R6

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM,J]

The petitioner is an educational institution established and administered by a Society called 'Christian Education, Health and Development Society'. A minority educational institution has filed this writ petition praying for declaration to declare Sections 21 (2)(b), 22(1)(2), 38(2)(j)(k) of the Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009) read with Rules 14 and 15 of the Tamil Nadu Right of Children to Free and Compulsory Education Rules, 2011 and the consequent G.O.Ms.No.213, dated 26.12.2011, School Education (C2) Department, as ultra-vires, unconstitutional, and inapplicable to the school of the member educational agencies of the petitioner.

2. The legal issue involved in this writ petition is settled by the Hon'ble Supreme Court in the case of Paramati Educational & Cultural Trust v. Union of India, reported in (2014) 8 SCC 271, wherein it was held that certain provision of the Act are inapplicable to the minority institutions.

3. The learned Government Advocate appearing for the respondents 2 to 5 pointed out that the correctness of the above-said decision was challenged in the decision in Ashwini Thanappan v. Director of Education and anr reported in (2014) 8 SCC 272 and the Hon'ble Supreme Court finding that the view in the decision in Paramati Educational & Cultural Trust (cited supra) is inconsistent with the judgement of the Constitution Bench of this Court in P.A.Inamdar v. State of Maharashtra reported in (2005) 6 SCC 537, has referred the matter for being considered by a Larger Bench.

4. Though reference has been made, the order of reference <https://hcservices.ecourt.gov.in/hcservices/> manner taken away the effect of the decision of the Hon'ble Supreme Court in Paramati Educational & Cultural Trust (cited supra) and it would be subject to the decision render by



the Larger Bench. Therefore, the writ petition is disposed of following the decision of Paramati Educational & Cultural Trust (cited supra) on the same lines in terms of the direction given by the Hon'ble Supreme Court to the minority educational institutions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to the Government of Education, Union of India,
New Delhi.

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

3.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

4.The Director of Elementary Education,
DPI Campus, College Road,
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5.The Chief Educational Officer,
Sarva Shiksha Abhiyan
Dindigul District.

6.The Supervisor
Block Resource Centre,
Oddanchatran Taluk, Dindigul District.

+One cc to M/s.S.M.S.Johnny Basha, Advocate, SR.No.16888

+One cc to Mr.N.Ravichandran, Advocate, SR.No.17220

+One cc to The Special Government Pleader, SR.No.17045

jikr

RL/10C/3P/MR/SAR3/5.4.2017

ORDER MADE IN
W.P.(MD) No.8611 of 2013 &
M.P.(MD).Nos.1 & 2 of 2013