

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8335 of 2018

and

W.M.P.Nos.10311 and 10312 of 2018

Qasmiyah Educational Trust,
A Public Religious and Charitable Trust,
Represented by its

Managing Trustee/President,
Mr.Mufti Mujahidul Islam Qasmi,
having office at
No.70, Mint Modern City,
Old Washermenpet,
Chennai-600 021.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Education Department,
Fort St.George, Chennai-600 009.
2. The Director of Elementary Education,
D.P.I. Compound,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
D.P.I. Compound, College Road,
Chennai-600 006.
4. Zubaida Educational Trust,
Represented by its Managing Trustee,
No.36 B and 37 A, Mint Modern City,
Old Washermenpet,
Chennai-600 021.
5. Zubaida Nursery and Primary School,
Rep. by its Correspondent,
No.36 B and 37 A, Mint Modern City,
Old Washermenpet, Chennai-600 021.

6. S.K.K.Basheer Ahamed

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to forbear the second and third respondents from in any manner granting approval or recognition to the fifth respondent run under the aegis of the fourth respondent Trust and consequentially direct the second and third respondents to enquire into the alleged functioning and administration of the fifth respondent-School.

For petitioner : Mr.R.Abdul Mubeen

For respondent : Mr.A.Rajaperumal,
Addl.G.P. for RR-1 to 3
Mr.A.Thiyagarajan,
Senior Counsel for
Mr.M.Nalla Thambi for RR-4 to 6

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to forbear the second and third respondents from in any manner granting approval or recognition to the fifth respondent to run the School under the aegis of the fourth respondent Trust and consequentially direct the second and third respondents to enquire into the alleged functioning and administration of the fifth respondent-School.

2. According to the petitioner, the sixth respondent has acted as President of the petitioner-Trust and that he has no locus-standi to act like that and that there cannot be any recognition that can be granted to the fifth respondent-School and that the land in Door Nos.36-B and 37-A in the Mint Modern City, Old Washermenpet, Chennai-600 021, had been usurped by the respondents and that the Trust Deed, said to have been entered into by the Founder of the Trust and the Trustees, in the name of the fourth respondent-Trust, is itself illegal. The petitioner submitted that the petitioner has not sought for any relief seeking declaration that the Trust Deed of the fourth respondent-Trust is illegal in this Writ Petition and for the said relief, a separate suit is pending before this Court in C.S.No.919 of 2017 filed by the petitioner-Trust before this Court and the following prayer is sought for in the said suit:

"The plaintiff there prays that this Hon'ble Court may be pleased to pass a judgment and decree:

(a) declaring that, the "Qasmiyah Nursery and Primary School" situate in 36-B and 37-A, Mint Modern City, Old Washermenpet, Chennai-600 021, with all its

land and buildings belongs to the "Qasmiyah Educational Trust" a public Religious and Charitable Trust.

(b) for permanent injunction restraining the defendants 1 to 7 from bringing "Qasmiyah Nursery and Primary School" run by Qasmiyah Educational Trust situate in 36-B and 37-A, Mint Modern City, Old Washermenpet, Chennai-600 021 with all its land and buildings under the purported "Zubaida Educational Trust" wherein they claim to be trustees.

(c) for permanent injunction restraining the 8th defendant from approving or recognizing the "Qasmiyah Nursery and Primary School" run by Qasmiyah Educational Trust situate in No.36B & 37A, Mint Modern City, Old Washermenpet, Chennai 600 021 under "Zubaida Educational Trust" retaining the name of the School as the same or changing the name of the school.

(d) awarding costs of the suit and

(e) granting such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case and render justice."

3. Even though various points are addressed on the merits of the matter, the learned Senior Counsel appearing for the respondents 4 to 6 submitted that the petitioner-Trust has sought for similar relief before this Court in the said suit, and the relief sought for by the petitioner cannot be decided in this Writ Petition, more particularly in the light of prayer (c) sought for in the said suit.

4. In view of the above, it is clear that the relief sought for by the petitioner in the said suit and the present Writ Petition, is one and the same. If a finding is rendered in favour of the petitioner, certainly it will have a bearing in the suit. If the contention of the petitioner is accepted and a finding is rendered in favour of the petitioner, this Court will have to render a finding with regard to the land and building referred to in the suit. Hence, this Court is not inclined to grant the relief sought for by the petitioner in this Writ Petition, as they have already filed the civil suit.

5. It is made clear that the order passed in this Writ Petition will not preclude the respondents 1 to 3 from passing any orders on the representation, dated 20.09.2016, if there are no other legal impediments to dispose of the said

representation. When the said representation dated 20.09.2016 is taken up by the respondents 1 to 3, apart from the petitioner, the persons who are likely to be affected, shall also be heard before passing orders on the said representation and the said representation shall be disposed of by the respondents 1 to 3, on merits and in accordance with law, as expeditiously as possible.

6. The Writ Petition is disposed of with the above observations. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

CS

To

1. The State of Tamil Nadu,
Rep. by its Secretary,
Education Department,
Fort St.George, Chennai-600 009.
2. The Director of Elementary Education,
D.P.I. Compound,
College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
D.P.I. Compound, College Road,
Chennai-600 006.

+1cc to Mr.R.Abdul Mubeen, Advocate, S.R.No.40253
+1cc to Mr.M.Nalla Thambi, Advocate, S.R.No.40514
+1cc to the Government Pleader, S.R.No.41416

W.P.No.8335 of 2018

CS/06/07/18

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