

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No. 8345 of 2018
in
W.M.P. No.10330 of 2018

Morning star centre Aided middle school
Rep by its secretary S.G.Suresh Prem Kumar ...Petitioner

Vs.

1. The Director of Elementary Education
DPI Complex,
College Road, Chennai -600 006.
2. The District Elementary Education Officer,
Vellore - 04.
3. The Assistant Elementary Education Officer,
Katpadi, Vellore- 632 007. ...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying for the records relating to the impugned order passed by the 2nd respondent in Na.Ka. No.1622/A2/2012 dated 12.02.2018 (received through the 3rd respondent office by post on 22.03

2. The brief facts which are necessary to dispose of the writ petition, are as follows:

The petitioner school is a non minority aided school receiving grants from the Government. It is stated that the school was started in the year 1949 and at that time the school was having classes 1 to 5th standard. In the year of 1954, the school was upgraded upto 8th standard. The petitioner's father was the founder of the said school. It is stated that after the death of the petitioner's father, his paternal uncle was managing the school affairs and there were several irregularities and mismanagement were noticed. It is admitted that the school was under direct payment because of mismanagement of the school administration by the brother of the petitioner's father.

3. Thereafter, based on the request of the petitioner and the report of the third respondent in his proceedings dated 28.04.2015, the petitioner requested the respondents to cancel the direct payment order and approve the appointment of the petitioner as secretary of the school. It is stated that the second respondent cancelled the direct payment order vide proceedings dated 28.04.2015, and approved the appointment of the petitioner as secretary of the school. However, this order was challenged in the year 2016 by one Mr.Sanjeevi Joseph in W.P.No.640 of 2016. In the said writ petition, this court has granted an order of status-quo. It is further stated that after lifting the order of direct payment, the petitioner constituted a School Committee on 29.08.2015 and submitted the proposals to the third respondent for approval.

4. It is further stated that the third respondent, in turn, forwarded the proposal on 22.01.2016 to the second respondent for approval of the School Committee and the same is pending before the second respondent. While so, it is stated that the second respondent has passed the impugned

that by paying salary directly to the teachers, the right of employer in Managing the school is seriously affected and that such orders will have serious civil consequences. It was therefore, held that the principles of natural justice will have to be followed before passing an order, to bring the school under direct payment.

7. In the Judgment rendered in Jayalakshmi Vilas Middle School, Vs. Director of Elementary Education reported in (2011) 2 MLJ 100, this court has held as follows:

"A reading of the aforesaid decisions would indicate that when the educational authorities resort to direct payment, it should be done only after complying with principles of natural justice as it has certain civil consequences. In this case, except a show cause notice issued by the educational authorities and on receipt of an explanation from the petitioner, the impugned order straight away passed ordering direct payment without affording sufficient opportunity to the petitioner. Even in the impugned order, except referring to the dispute between the management and the staff, no special circumstances have been shown warranting direct payment. Under those circumstances, the impugned order is per se against the principles of natural justice and therefore it is set aside."

8. Yet another Judgement in WP.5916 of 2009 [the secretary, Balakrishnavilas Aided Primary School Vs. The State of Tamilnadu], a learned single Judge of this Court has held that the decision for direct payment is an act of encroachment into the well established rights and privileges of Management of Educational Institutions and that it will have serious civil consequences. It is therefore held that the principles of natural Justice will have to be followed in such cases before passing an order.

9. Taking into

warranted to bring the school under direct payment . No costs.
Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpl/pds

To

1. The Director of Elementary Education
DPI Complex,
College Road, Chennai 600 006.
2. The District Elementary Education Officer,
Vellore 04.
3. The Assistant Elementary Education Officer,
Katpadi, Vellore 632 007.

+1cc to Mr.K.H.Ravikumar, Advocate, S.R.No.61334

+1cc to the Government Pleader, S.R.No.61793.

W.P.No. 8345 of 2018
in

W.M.P. No.10330 of 2018