

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.6601 of 2017 &
W.M.P.Nos.7082 to 7084, 20578 & 20579 of 2017 &
W.P.No.13493 of 2017 &
W.M.P.Nos.14565 to 14568 of 2017

W.P.No.6601 of 2017

K.Vijayakumari

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Chennai - 600 009.
- 2.The State of Tamil Nadu,
Rep. by Director of School Education,
(Secondary Education),
College Road, Nungambakkam,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Chief Educational Office,
Vellore - 632 009.
- 4.The District Educational Officer,
District Educational Office,
Tirupattur - 635 601.
Vellore District.
- 5.The Head Mistress,
Government Garden High School,
(Managed by Pandiyan Educational Trust),
Tirupattur - 635 601, Vellore District.
- 6.T.M.Kuppusamy (Advocate),
Secretary,
Government Garden High School,
(Managed by Pandiyan Educational Trust),
Tirupattur - 635 601,
Vellore District.

7.Mrs.K.Tamilselvi

.. Respondents

(R-7 impleaded as per the order dated
18.04.2017 in W.M.P.No.9356 of 2017
in W.P.No.6601 of 2017)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the impugned order of the fourth respondent in Na.Ka.No.1431/A4/2008, dated 24.05.2013 and quash the same.

For Petitioner : Mr.A. Thiagarajan
Senior Counsel
For Mr.E.Sathiyaraj

For Respondents : Mr.K.Karthikeyan
Government Advocate for R1 to R4

Mr.P.Wilson, Senior Counsel
for Mr.S.Shyam Kumar for R5 & R6

Mr.A.Thiagarajan, Senior Counsel
For Mr.A.Ilaya Perumal for R7

W.P.No.13493 of 2017

K.Tamilselvi

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Chennai - 600 009.

2.The State of Tamil Nadu,
Rep. by Director of School Education,
(Secondary Education),
College Road, Nungambakkam,
Chennai - 600 006.

3.The Chief Educational Officer,
Chief Educational Office,
Vellore - 632 009.

4.The District Educational Officer,
District Educational Office,
Tirupattur - 635 601.
Vellore District.

5.The Head Mistress,
Government Garden High School,
(Managed by Pandiyan Educational Trust),
Tirupattur - 635 601, Vellore District.

6.S.Rajendran

7.T.M.Kuppusamy (Advocate),
Secretary,
Government Garden High School,
(Managed by Pandiyan Educational Trust),
Tirupattur - 635 601,
Vellore District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the impugned order of the fourth respondent in Na.Ka.No.1431/A4/2008, dated 24.05.2013 and quash the same.

For Petitioner : Mr.A.Thiagarajan,
Senior Counsel
For Mr.A.Ilaya Perumal

For Respondents: Mr.K.Karthikeyan
Government Advocate
for R1 to R4

Mr.Venkataswamy Babu
for R5 & R7

Mrs.R.Poornima for R6

C O M M O N O R D E R

Heard both sides and perused the materials available on record.

2. These Writ Petitions have been filed challenging the appointment of one T.M.Kuppusamy (sixth respondent in W.P.No.6601 of 2017 / seventh respondent in W.P.No.13493 of 2017) as Secretary of Tirupattur Government Garden High School.

3. Pandiyan Educational Trust was established by a registered Trust Deed dated 21.07.1984 and the Trust has been running various educational institutions. It seems that a dispute arose between the Trustees of Pandiyan Educational Trust and thereafter Civil Suits in O.S.Nos.191 of 1993, 14 of 1994, 105 of 1995, 234 of 1995 and 200 of 1998 have been filed before the District Munsif Court and Sub Court of Tirupattur and this Court in C.R.P.No.1426 of 1998 ordered transfer of suits to be

tried by the Sub Court, Tirupattur.

4. A Writ Petition in W.P.No.14375 of 2008 was filed by the Trust represented by the then Secretary V.R.Kamalakannan, challenging the order of direct payment. However, during the pendency of the Writ Petition, the Secretary passed away and the said T.M.Kuppusamy was substituted to pursue the Writ Petition. The Writ Petition was disposed of 22.02.2013 with a direction to the District Educational Officer, Tirupattur to consider the case for grant of recognition to a proper Secretary representing the Educational Agency in the School. It was further observed that before deciding the said issue of recognizing the said T.M.Kuppusamy as the Secretary in terms of Rules 12 and 13 of the Tamil Nadu Private Schools (Regulation) Rules, 1974, if any passed by the Civil Courts, shall also take note of the orders.

5. The main grievance of the petitioners is that before the impugned order came to be passed, the pendency of the civil cases and the orders passed thereon were not brought to the notice of the District Educational Officer and it was decided in violation of principles of natural justice, since they were not given opportunity to participate in the enquiry proceedings.

6. The learned Senior Counsel for the petitioners submitted that admittedly Civil Suits instituted by the petitioners with regard to administration of the Trust are pending and a specific direction has been issued by this Court in C.R.P.No.1426 of 1998, stating that the Trustees shall not be permitted to administer or interfere with the management of the Trust, but, without considering the orders passed by this Court, the fourth respondent appointed the said T.M.Kuppusamy as a Secretary, stating that no civil litigations are pending.

7. It is contended by the learned Senior Counsel for the seventh respondent that the petitioners have already been removed from the Trust and the prayers sought for in O.S.Nos.232 and 233 of 2004 are with regard to dispute between the Trustees and there is no prayer in the Suit with regard to appointment of a Secretary of the Educational Agency. It is further contended that there is a specific bar under Section 53 of the Act for institution of the Suit and prayed for dismissal of the Writ Petition. It is also argued that removal of the Trustees was assailed before the Registrar, and by a detailed order, the case of the petitioners was rejected, but they have not challenged the order.

8. A perusal of the records would reveal that suits have instituted, one challenging the Resolution of the Trust and another for permanent injunction. The petitioner in W.P.No.13493 of 2017 was the fifth respondent in W.P.No.14375 of 2008.

Admittedly, the fourth respondent while appointing T.M.Kuppusamy as Secretary, has not provided an opportunity to the petitioners to put forth their case. It is contended by the learned Senior Counsel for the petitioners that in C.R.P.No.1426 of 1998 all the Trustees have been directed not to interfere with the administration of the Institution and the Trust and the same was affirmed by the Hon'ble Supreme Court. Indisputably, the petitioners are parties to the Suits, Civil Revision Petition and the Writ Petition, hence in my considered opinion, the petitioners are entitled to be heard before appointment of Secretary of the School in question.

9. For the foregoing reason, the order impugned in this Writ Petition is liable to be set aside and accordingly, it is set aside. The matters are remanded back to the fourth respondent, the District Educational Officer, who shall pass an order afresh after affording opportunity to all necessary parties and strictly in accordance with the directions issued by this Court in the Writ Petition and Civil Revision Petition. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. Accordingly, the Writ Petitions are allowed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

r n s
To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Chennai - 600 009.

2.The Director of School Education,
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(Secondary Education),
College Road, Nungambakkam,
Chennai - 600 006.

3.The Chief Educational Officer,
Chief Educational Office,
Vellore - 632 009.

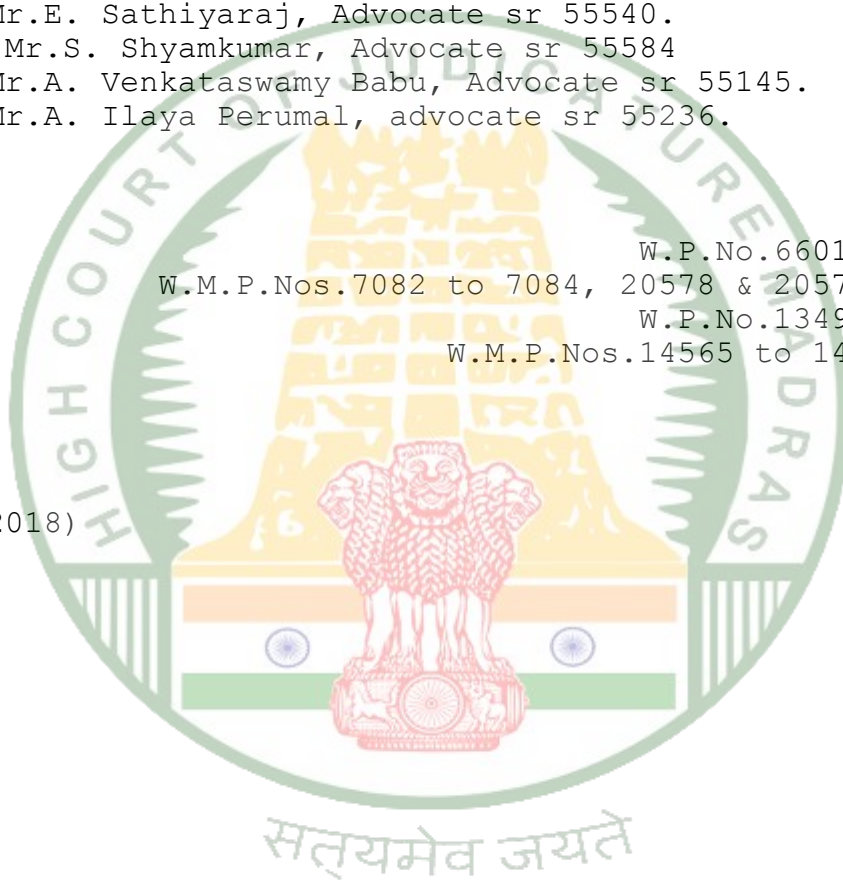
4.The District Educational Officer,
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5.The Head Mistress,
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(Managed by Pandiyan Educational Trust),
Tirupattur - 635 601, Vellore District.

+1 CC to Govt. Pleader sr 55348.
+1 CC to Mr.E. Sathiyaraj, Advocate sr 55540.
+2 Ccs to Mr.S. Shyamkumar, Advocate sr 55584
+1 CC to Mr.A. Venkataswamy Babu, Advocate sr 55145.
+1 CC to Mr.A. Ilaya Perumal, advocate sr 55236.

W.P.No.6601 of 2017 &
W.M.P.Nos.7082 to 7084, 20578 & 20579 of 2017 &
W.P.No.13493 of 2017 &
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RJI (CO)
SP (04/09/2018)



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