

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos. 6567 of 2018, 1315 of 2016 and 25002 of 2016
and W.M.P.Nos.9657 of 2018, 1082 and 1083 of 2016,
21363 and 21364 of 2016

W.P.No.6567 of 2018

Sir M.Ct.Muthiah Chettiar Hr.Sec. School,
Teaching and Non-Teaching Staff Association,
Rep. by its President,
V.Sakthivel Pandian,
23, Raja Annamalai Road,
Purasawalkam, Chennai - 600 084.

... Petitioner

Vs.

1. The Director of School Education,
O/o. The Director of School Education,
College Road, Chennai - 600 006.
2. The Chief Educational Officer,
O/o. Chief Educational Officer,
Panagal Maligai, Saidapet,
Chennai - 600 015.
3. The District Educational Officer,
O/o. The District Educational Office,
North Chennai Education District,
Egmore, Chennai - 600 008.
4. The Management of
Sir M.Ct.Muthiah Chettiar Hr.Sec. School,
23, Raja Annamalai Road,
Purasawalkam, Chennai - 600 084.
5. S.Ravisankar
6. V.Elangovan
7. A.Thirumaran
8. R.Soundarapandian
9. S.Uma
10. A.Uma Rosaline
11. M.Loganathan

12. P.U.Gandhi
13. J.Balaji
14. C.J.Gnanasekar
15. T.Iyappan
16. P.Shanmuganathan
17. S.Vairamuthu
18. S.T.Jemila Therese
19. C.Suresh Kannan
20. P.Sivanandam
21. M. Munichandra
22. R. Sankaranarayanan
23. M.Srinivasagan
24. S.Amuthamari
25. T.N.Thamizhazhagi
26. B.Sasikumar
27. J.Malathi
28. A.Sivaraman
29. M.A.Dhanalakshmi
30. D.C.Shyla Jothi
31. J.Lavanya
32. M.Ganesh Kumar
33. R.Sakthivel
34. S.Karunakaran
35. N.Yugasirpy
36. K.Sathya

37. D.Ramachandran ... Respondents
(Respondents 5 to 37 impleaded vide order dated
12.04.2018 in W.M.P.No.9657 of 2018 in W.P.No.6567 of 2018)

W.P.No.1315 of 2016

Sir M.Ct.Muthiah Chettiar Hr.Sec. School,
Teaching and Non-Teaching Staff Association,
Rep. by its President,
V.Sakthivel Pandian,
23, Raja Annamalai Road,
Purasawalkam, Chennai - 600 084.

... Petitioner

WEB Vs. COPY

1. The Government of Tamil Nadu,
Rep. by the Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2. The Director of School Education,
D.P.I. Compound,
College Road, Chennai - 600 006.

3. The Joint Director of School Education,
(Higher Secondary),
D.P.I. Compound,
College Road, Chennai - 600 006.

4. The District Educational Officer,
Chennai-North,
Egmore, Chennai - 600 008.

5. Sir M.Ct.M.Boys Higher Secondary School,
Rep. by its Secretary,
No.23, Raja Annamalai Road,
Purasawalkam, Chennai - 600 084.

... Respondents

W.P.No.25002 of 2016

Sir M.Ct.Muthiah Chettiar Hr.Sec. School,
Teaching and Non-Teaching Staff Association,
Rep. by its President,
V.Sakthivel Pandian,
23, Raja Annamalai Road,
Purasawalkam, Chennai - 600 084.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by the Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2. The Director of School Education,
D.P.I. Compound,
College Road, Chennai - 600 006.

3. The Joint Director of School Education,
(Higher Secondary),
D.P.I. Compound,
College Road, Chennai - 600 006.

4. The Chief Educational Officer,
Panagal Maligai, Saidapet,
Chennai - 600 015.

5. The District Educational Officer,
Chennai-North,
Egmore, Chennai - 600 008.

6. Sir M.Ct.M.Boys Higher Secondary School,
Rep. by its Secretary, School Committee,
No.23, Raja Annamalai Road,
Purasawalkam, Chennai - 600 084.

7. The Headmaster,
Sir M.Ct.M.Boys Higher Secondary School,
No.23, Raja Annamalai Road,
Purasawalkam, Chennai - 600 084.

... Respondents

PRAYER in W.P.No.6567 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to dispose of the petitioner's representation dated 27.01.2018 and consequently initiate suitable proceedings against the 4th respondent school management on the basis of our representation dated 27.01.2018.

PRAYER in W.P.No.1315 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records on the file of 4th respondent culminated in Na.Ka.No.5763/A3/2014 dated 18.12.2015, and quashing the same and consequently direct the Educational Agency of the 5th respondent School to constitute a fresh School Committee in accordance with the provisions of the Tamil Nadu Recognised School (Regulation) Act, 1973 and the Rules framed thereunder.

PRAYER in W.P.No.25002 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the entire records on the file of 6th respondent culminated in letter dated 08.07.2016 and quashing the same.

W.P.No.6567 of 2018

For Petitioner : Mr.D.Bharathy

For Respondents 1 to 3 : Ms.V.Annalakshmi,
Government Advocate

For 4th Respondent : Mr.Yashod Vardhan,
Senior Counsel
for Mr.T.Madhu Sudhan Reddy

W.P.No.1315 of 2016

For Petitioner : Mr.C.Johnson
For Respondents 1 to 4 : Ms.V.Annalakshmi
Government Advocate
For 5th Respondent : Mr.Yashod Vardhan,
Senior Counsel
for Mr.T.Madhu Sudhan Reddy

W.P.No.25002 of 2016

For Petitioner : Mr.C.Johnson
For Respondents 1 to 5 : Ms.V.Annalakshmi
Government Advocate
For Respondents 6 & 7 : Mr.Yashod Vardhan,
Senior Counsel
for Mr.T.Madhu Sudhan Reddy

C O M M O N O R D E R

W.P.No.6567 of 2018 has been filed for the issuance of a Writ of Mandamus to direct the respondents 1 to 3 to dispose of the petitioner's representation dated 27.01.2018 and consequently initiate suitable proceedings against the 4th respondent-School Management on the basis of their representation dated 27.01.2018.

2. W.P.No.1315 of 2016 has been filed praying for issuance of a Writ of Certiorari Mandamus to call for the entire records on the file of 4th respondent culminated in Na.Ka.No.5763/ A3/2014 dated 18.12.2015, and quash the same and consequently direct the Educational Agency of the 5th respondent School to constitute a fresh School Committee in accordance with the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules framed thereunder.

3. W.P.No.25002 of 2016 has been filed praying for issuance of a Writ of Certiorari to call for the entire records on the file of the 6th respondent culminated in the letter dated 08.07.2016 and quash the same.

4. The sum and substance of the issue on hand is that the minority status sought for by the school was not acceded to and that the petitioner is governed by the Tamil Nadu Private Schools Regulation Laws applicable.

5. According to the petitioner, they represent 47 teaching and non-teaching staff and that at the time of filing the Writ Petitions, they were members. The school was properly run by Mr.Tarun Ghai, who was inducted as one of the Committee Members and that problems arose thereafter. The 3rd respondent/District Educational Officer of North-Chennai Education District passed an order dated 29.02.2012 with regard to direct disbursement of the grant-in-aid to the staff. This Court, in W.P.No.23177 of 2013, by an order dated 13.11.2014 held that minority status cannot be sought for by the School and that it is governed by the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973.

6. According to the learned counsel for the petitioner, there should be school agency, which has to manage the school and that the School Committee will have to be appointed by the school agency and the method of appointing school agency is not in accordance with the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, (hereinafter referred to as 'Private Schools Act'). It is the contention of the learned counsel for the petitioner that the appointment of the consequential School Committee itself is bad, as the provisions of the Act and Rules have not been followed scrupulously, and hence the impugned orders in the present Writ Petitions have got to be interfered with.

7. It is further stated by the learned counsel for the petitioner that in terms of Section 8 of the Act, the competent authority for granting approval to the School Committee is the Joint Director and District Educational Officer. As there was change in the constitution of the agency in 2014, no approval was granted/obtained. Even though there was a proposal to the Joint Director as early as on 10.12.2014, no order has been passed at that point of time. The period got lapsed and yet another proposal was sent on 27.07.2016, which was approved on 29.08.2016.

8. The learned counsel for the petitioner further stated that the School Committee, which was approved on 18.12.2015 does not have necessary Quorum and that the School agency has not been properly appointed by the Committee and the present impugned orders lack bona-fides, apart from the fact that there is violation of the provisions of the Act and the Regulations made thereunder.

9. Mr.Yashod Vardhan, learned Senior Counsel appearing for the School contended that the Writ Petitions are not maintainable in the light of Section 53-A of the Act. According to him, there are disputed questions of fact and when the petitioner has demanded direct payment, which was agreed by the

authorities and which was questioned by the School, the Court held that even though the School cannot claim minority status, it is governed by the 1973 Act.

10. According to Mr.Yashod Vardhan, only grievance of the petitioner is that the Management wanted to enforce discipline and that educational authorities cannot be allowed to be used as tools of teaching and non-teaching staff to bring the Management to their knees and the Chief Educational Officer has lost sight of this aspect while passing the impugned orders with regard to direct payment and that the said Educational Officer was placed under suspension with regard to different matter.

11. It is further stated that out of 47 teaching and non-teaching staff, 33 persons have stated that they have not authorised the petitioner to file the Writ Petition and that there were only 14 staff (7 teaching and 7 non-teaching staff) as members of the petitioner-Association and they are trying to litigate frivolously, thereby stalling the entire administration. When the petitioner has no locus standi and that periodically, there has been intimation to the authorities with regard to constitution of Committee/Agencies, based on which, persons have been appointed and that the authority viz. The Joint Director (Higher Secondary School) has taken note of the Scheme Decree and approved the agency with effect from 17.07.2015 with retrospective effect, the petitioner-Association cannot have the right to contend that the authority will have supreme power than that of the Court, which has passed the decree. Further, he drew the attention of this Court that as early as in 2014, when the school was declared as non-minority institution, five trustees in the educational agencies were appointed and on account of the retirement order and withdrawal of their own trustees, new trustees have been appointed or reappointed and that the three trustees viz., Arthi Meenakshi Muthaiah, Tharun Ghai and Supriya Ananth Reddy, were appointed pursuant to the judgment and decree in C.S.No.598 of 2013, dated 27.02.2014 and hence, the petitioner has no locus standi to question the act of the school or that of the authority. There are several litigations between the parties viz., School and the Parent Teacher Association and that the petitioner wants the School to act on the dictates of the petitioner.

12. Mr.D.Bharathy, learned counsel representing the petitioner in W.P.No.6567 of 2018 contended that he is representing only 14 staff (7 teaching and 7 non-teaching staff) and that at the time of filing of the Writ Petitions in W.P.Nos.1315 of 2016 and 25002 of 2016, majority of members of the petitioner-Association were present.

13. Mr.Yashod Vardhan, learned Senior Counsel submitted

that if the petitioner in W.P.No.1315 of 2016 fails to succeed, no direction could be issued to dispose of the representation in W.P.No.6567 of 2018 and that they have no public duty or legal or statutory right seeking for disposal of the representation.

14. Mr.C.Johnson, learned Counsel, in reply, submitted that in terms of Section 53 of the Act, Civil Court's jurisdiction is ousted. When the Civil Court's jurisdiction is ousted, the petitioner cannot approach the Civil forum to get appropriate relief and submitted that as there is violation of the statutory provisions, the impugned orders have got to be interfered with.

15. Heard the learned counsel appearing for both parties and perused the materials available on record.

16. The petitioner-Association, even though stated that they have majority of staff as members, they have not produced any documents to show that all the 47 teaching and non-teaching are members of the Association and that in W.P.No. 6567 of 2018, it is represented that there are only 14 staff (7 teaching and 7 non-teaching staff). That apart, 33 teaching and non-teaching have represented that they have not authorised any Association to file any writ petition/case.

17. The facts in question are not in dispute. The contention of Mr.C.Johnson, learned counsel that in view of Section 53 of the Act, the Civil Court has no jurisdiction, cannot be accepted. For the sake of convenience, the relevant Sections, namely, Sections 53, 53-A and 54 are extracted below:-

53. Civil Court not to decide question under this Act.- No Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by any Authority or Officer mentioned in this Act.

53-A. Settlement of dispute as to Education Agency, etc.- (1) Notwithstanding anything contained in Section 53, whenever any dispute as to the constitution of any educational agency, or as to whether any person or body of persons, is an educational agency, in relation to any private school, or as to the constitution of a School Committee, or as to the appointment of the Secretary of the School Committee arises, such dispute may be referred by the persons interested or by the competent authority to the Civil Court having jurisdiction for its decision.

(2) Pending the decision of the Civil Court

on a dispute referred to it under sub-section (1), or the making of an interim arrangement by the Civil Court for the running of the private school, the Government may nominate an officer to discharge the functions of the Educational Agency, the School Committee or the Secretary, as the case may be, in relation to the private school concerned.

54. Finality of orders, etc., passed under this Act.- (1) Any order made, decision taken or direction issued by any authority or officer in respect of matters to be determined for the purposes of this Act, shall, subject only to appeal or revision, if any, provided under this Act, be final.

(2) No such order, decision or direction shall be liable to be questioned in any Court of law.

18. If there is any dispute with regard to School Agency/ School Committee, certainly the Civil Court has got jurisdiction to decide the same. In this case, the intention of the petitioner appears to distract proper administration of running of the School. When the Scheme Decree has been passed in C.S.No.598 of 2013 dated 27.02.2014, based on which, the order dated 29.08.2016 has been approved and the Committee has approved for changing the educational agency with effect from 17.07.2015, which has been consented by the Joint Director (Higher Secondary) taking note of the judgment and decree, more particularly in the light of Section 8(1)(a) of the said Act and Rule 7(1) of the Rules framed under the said Act, the petitioner has no locus standi to question the impugned order in W.P.Nos.1315 and 25002 of 2016 and is not entitled to the relief sought for in W.P.No.6567 of 2018.

19. As the matter is considered under Section 53-A of the Act by the authority concerned and that the entire matter has been argued at length, this Court is of the considered view that the School Agency/School Committee cannot be approved/faulted with and this Court, in an earlier occasion, held that teaching and non-teaching staff cannot force the Management and bring to their knees. It is neither in the interest of the Institution nor in the interest of the teaching committee unity as a whole.

20. Furthermore, the plea of the petitioner is hit by Section 53-A of the Act and the disputed questions of fact cannot be gone into by this Court under Article 226 of the Constitution of India. Also, when there is approval, the

petitioner cannot be permitted to prevent smooth running of the School.

21. Hence, the relief sought by the petitioner cannot be granted in all these Writ Petitions and accordingly, these Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.
2. The Director of School Education,
O/o. The Director of School Education,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
O/o. Chief Educational Officer,
Panagal Maligai, Saidapet, Chennai - 600 015.
4. The District Educational Officer,
O/o. The District Educational Office,
North Chennai Education District,
Egmore, Chennai - 600 008.
5. The Joint Director of School Education,
(Higher Secondary), D.P.I. Compound,
College Road, Chennai - 600 006.

+1cc to Mr.D.Bharathy, Advocate, S.R.No.27149
+1cc to Mr.T.Madhu Sudhan Reddy, Advocate, S.R.No.27195
+1cc to Mr.T.Madhu Sudhan Reddy, Advocate, S.R.No.27194
+1cc to Mr.T.Madhu Sudhan Reddy, Advocate, S.R.No.27193
+2ccS to Mr.C.Johnson, Advocate, S.R.No.27422
+1cc to the Government Pleader, S.R.No.27680

W.P.Nos. 6567 of 2018,
1315 of 2016 & 25002 of 2016

NA(CO)
CS/03/07/18