

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.02.2018

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.31023 of 2013
and
M.P.No.2 of 2013 and
WMP.No.331 of 2017

Mukuperi-Prakasapuram Inthia,
Eka Ratchagar Sabai,
Rep.by its President,
Raja Sanjeevi,
S/o.Thangaraj Nadar,
Mukuperi,
Tuticorin District.

..Petitioner

vs

1.Secretary to the Government,
School Education(C2)Department,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.

2.The Director of School Education,
DPI Complex,
College Road,
Chennai - 600 006.

3.The Director of Elementary Education,
DPI Complex,
College Road,
Chennai - 600 006.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the G.O.Ms.No.213 School Education(C2) Department dated 26.12.2011, on the file of the first respondent herein and to quash the same.

For Petitioner :Mr.S.Subbiah

For Respondents :Mr.C.Munusamy, Spl GP (Edn)

O R D E R

Challenging the order passed by the first respondent in G.O.Ms.No.213 School Education(C2) Department dated 26.12.2011, the petitioner has come up with the present writ petition.

2.It is the case of the petitioner that the petitioner has been registered as a Society. It has established Educational institutions, which are protected under Article 30(1) of the Constitution of India. While so, the Government has issued certain guidelines in G.O.Ms.No.213 School Education (C2) Department, dated 26.12.2011, as per which, the petitioner was directed to form the School Management Committee, as the Right of Children to Free and Compulsory Education Act, 2009, mandates the same. Hence, this writ petition.

3.When the writ petition was taken up for consideration, the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents jointly submitted that the issue involved herein is covered by the Larger Bench decision of the Hon'ble Supreme Court in Pramati Educational and Cultural Trust and others vs. Union of India and others [2014 (4) MLJ 486 (SC)], wherein, it has been held that "the 2009 Act, insofar as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires the Constitution".

4.In the light of the Larger Bench decision of the Hon'ble Supreme Court as referred to above, this writ petition is allowed by quashing G.O.Ms.No.213, School Education (C2) Department, dated 26.12.2011 as far as the petitioner's institutions are concerned. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kak/rk

To

1. Secretary to the Government,
School Education(C2)Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

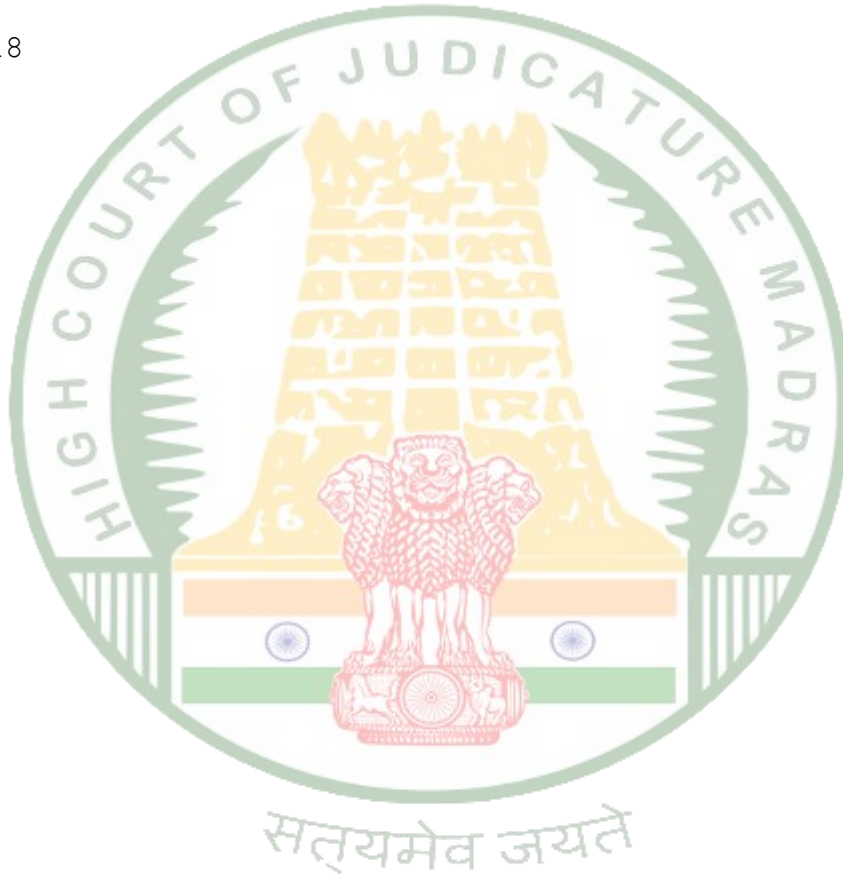
2.The Director of School Education,
DPI Complex, College Road,
Chennai - 600 006.

3.The Director of Elementary Education,
DPI Complex, College Road,
Chennai - 600 006.

+1cc to Mr.P.Raja, Advocate, S.R.No.12107

W.P.No.31023 of 2013

kk(co)
cs/16/04/18



WEB COPY