

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.13687 of 2018 & C.M.P.Nos.16143 and 16144 of 2018,
W.P.No.14169 of 2018 & C.M.P.No.16737 of 2018 and
W.P.No.14261 of 2018 & C.M.P.Nos.16850 and 16851 of 2018

W.P.No.13687 of 2018:

P.Ravi

Petitioner

-vs-

1.The State of Tamil Nadu,
rep.by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai-600 009.

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

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

4.The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.

Respondents

W.P.No.14169 of 2018:

Association of Heads of Anglo-Indian
Schools in India (Tamil Nadu Branch)
Regn.No.55/2009
represented by its Secretary Rev.Sr.Nirmala
No.3, Meclean Street, George Town,
Chennai-600 001.

Petitioner

-vs-

1.The Principal Secretary to Government,
School Education Department,
Fort St.George,
Chennai-600 009.

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

3.The Inspector of Anglo-Indian Schools,
DPI Campus, College Road,
Chennai-600 006.

... Respondents

W.P.No.14261 of 2018:

Tamilaga Asiriyar Kootani,
Arvalar Maligai,
No.52, Nallathambi Street,
Triplicane,
Chennai-600 005
rep.by its General Secretary,
A.Vincent Paulraj

... Petitioner

-vs-

1.The State of Tamil Nadu,
rep.by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai-600 009.

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

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

4.The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.

... Respondents

W.P.No.13687 of 2018 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of suspension issued by the first respondent in G.O.Ms.No.101 School Education (Budget-1) Department dated 18.05.2018 and to quash the same and consequently direct the respondent to constitute a committee with educationist and to take decision for restructuring of administration of school education based on Expert Opinion to be placed in public domain calling for suggestion / objection from stake holders and to take a final decision in the manner known to law.

W.P.No.14169 of 2018 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to G.O.Ms.No.101 dated 18.05.2018 and the consequential G.O.Ms.No.108 dated 28.05.2018 and to quash the same and permit the members of the petitioner Association Schools to function under the Code of Regulations for Anglo-Indian Schools, Tamil Nadu State.

W.P.No.14261 of 2018 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of suspension issued by the first respondent in G.O.Ms.No.101 School Education (Budget-1) Department dated 18.05.2018 and the subsequent order issued by the first respondent in G.O.Ms.No.108 School Education (Budget-E) Department dated 28.05.2018 and to quash the same and consequently direct the respondents to constitute a committee with educationists and to take decision for restructuring of administration of school education based on Expert Opinion to be placed in public domain calling for suggestion / objection from stake holders and to take a final decision in the manner known to law.

W.P.No.13687 of 2018:

For Petitioner :: Mr.P.Wilson, Sr.Counsel for
Mr.G.Sankaran

For Respondents:: Mr.Arvind Pandian,
Addl.Advocate General
assisted by Mr.C.Munusamy,
Spl.GP

W.P.No.14169 of 2018:

For Petitioner :: Mr.P.Wilson, Sr.Counsel for
M/s.P.Wilson Associates

For Respondents:: Mr.Arvind Pandian,
Addl.Advocate General
assisted by Mr.C.Munusamy,
Spl.GP

W.P.No.14261 of 2018:

For Petitioner :: Mr.P.Wilson, Sr.Counsel for
Mr.G.Sankaran

For Respondents:: Mr.Arvind Pandian,
Addl.Advocate General
assisted by Mr.C.Munusamy,
Spl.GP

COMMON ORDER

(Made by HULUVADI G.RAMESH, J.)

These writ petitions have been filed challenging the order passed by the Government of Tamil Nadu in G.O.Ms.No.101 School Education (Budget-1) Department dated 18.05.2018 and the consequential order in G.O.Ms.No.108 dated 28.05.2018, on the ground that the same are ultra vires, unconstitutional and lacks jurisdiction.

2.The common facts involved in all these writ petitions are as follows:

(i)The private schools are governed by the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules 1974 made thereunder. The Private Schools opened prior to 1991-92 were granted recognition and grant-in-aid with effect from 01.04.1964 to compensate the expenses for meeting the payment of salaries for teaching and non-teaching staff. However, after the amendment to the provisions of the Act by insertion of Section 14A as per the Tamil Nadu Act 11 of 1999, no grant shall be paid to any new private schools from the academic year 1991-1992. Therefore, the schools commenced after 1991-92 are Self Financed Institutions and hence they are governed under Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Rules 1974. In respect of minority schools, the same are governed under Tamil Nadu Minority Schools (Recognition and Payment of Grant Rules, 1977).

(ii)It is further stated that High Schools and Higher Secondary Schools coming under the category of private schools are under the administrative control of the Director of School Education. The Primary Schools and Middle Schools are coming under the administration of Director of Elementary Education. There are also Special Rules framed for Tamil Nadu Elementary Educational Subordinate Service, Tamil Nadu Educational Service, Tamil Nadu Higher Secondary Education Service, and so on, to regulate the condition of teaching and non-teaching staff working in Government Schools, Panchayat Union Schools coming under respective Departments. While so, the Government of Tamil Nadu has issued the Government Order in G.O.Ms.No.101, School Education (Budget-1) Department, dated 18.05.2018, in the name of restructuring the administrative set up at the field level and by delegating disciplinary and administrative powers to field level officers, in the name of effective monitoring of schools and quality of education.

(iii)It is also stated that in the Government order, all the officers in the District level in different Departments have been amalgamated with renaming of posts with hierarchies, viz. Chief Educational Officer, District Educational Officer, Block

Educational Officer in the District level with assignment of powers and functions, without reference to the Acts and Rules occupying the field, and without appreciating the fact that any such amalgamation of officers in different Directorates would result in utter chaos and confusion in the administration of education in the State of Tamil Nadu, ultimately affecting the system of education for the public at large. The Government order came to be issued unilaterally without formation of any Expert Committee and without obtaining any suggestions or objections from the stake holders and without reference to any critical study on the issue. As per the Government order, Chief Educational Officer has been given the power to administer all kinds of schools. Further, the District Educational Officer, District Elementary Educational Officer, Inspector of Matriculation Schools and Inspector of Anglo Indian Schools coming under different Directorates / Departments are directed to be retained as District Educational Officer, without reference to the character of the schools. All the schools have been mixed together without reference to their identities as per the recognition granted by the respective statute. Furthermore, the Assistant Elementary Educational Officers are renamed as Block Educational Officers and they have been entrusted to supervise Panchayat Union Schools, Government Aided Schools as well as Self-Financed Schools based on territorial jurisdiction demarcated.

3. With the above background, the learned senior counsel appearing for the petitioner in all these writ petitions has prayed for quashing the order passed by the Government in G.O.Ms.No.101, School Education (Budget-1) Department, dated 18.05.2018 and the consequential order passed by the Government in G.O.Ms.No.108 dated 28.05.2018, on the ground that the Government Orders conferring powers to an officer coming under one service to carry out the functions of other service governed by different Service Rules is ultra vires, illegal and suffers from lack of jurisdiction.

4. The learned Addl. Advocate General appearing for the respondents has submitted that it is incorrect to state that the impugned Government orders came to be issued hurriedly without any analytical study. He submitted that since there were difficulties experienced in view of involving separate authorities for inspection, regulation and monitoring different kinds of schools in a given territorial jurisdiction, the impugned orders came to be passed.

5. Heard the learned counsel on either side and perused the materials available on record.

6. By way of passing the Government Order in G.O.Ms.No.101, School Education (Budget-1) Department, dated 18.05.2018, the

Government of Tamil Nadu has restructured the administrative set up at the field level and delegation of the disciplinary as well as administrative powers to field level officers to ensure effective monitoring of schools and quality of education, as per the proposals received from the Director of School Education, Director of Elementary Education and the Director of Matriculation Schools.

7.W.P.Nos.13687 and 14261 of 2018 have been filed to quash the Government Order in G.O.Ms.No.101, School Education (Budget-1) Department, dated 18.05.2018 and the consequential Government Order in G.O.Ms.No.108, School Education (Budget-1) Department, dated 28.05.2018 and to issue a direction to the respondents to constitute a committee with educationists and to take a final decision for restructuring of administration of school education based on Expert Opinion to be placed in public domain calling for suggestions / objections from stake holders, in the manner known to law. W.P.No. 14169 of 2018 has been filed by the Association of the Heads of Anglo-Indian Schools in India praying to quash the said Government Orders with a consequential direction to permit the members of the petitioner Association Schools to function under the Code of Regulations for Anglo-Indian Schools, Tamil Nadu State.

8.It is the submission of the learned senior counsel appearing for the petitioners that the impugned Government Orders conferring powers to an officer coming under one service to carry out the functions of other service governed by different Service Rules, under the guise of restructuring of administration, is ultra vires, illegal and suffers from lack of jurisdiction. In respect of W.P.No.14169 of 2018, he submitted that Articles 29 and 30 of the Constitution of India gives complete independence in so far as the administration and Management of Anglo-Indian Schools and Linguistic Minority Schools. There are separate statutory enactments comprising the provisions for establishment and other statutory functions. Now, it appears that different posts in different services have been amalgamated into a single post to carry out the entire functions, by way of entrusting the tasks to Chief Educational Officers, District Educational Officers and so on.

9.According to the learned senior counsel appearing for the petitioners, a post borne in the cadre in particular service conferred with powers and responsibilities as per the Service Rules cannot be authorised to carry out the functions coming under different services governed by separate powers, which only amounts to transgression of powers and violation of the Rules. According to the learned senior counsel, private schools are governed by the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and the Rules 1974 made thereunder and amendments will be made from time to time by

introducing new rules as per the Statute. Similarly the Anglo Indian Schools are governed by the Code of Regulations for Anglo-Indian Schools, Tamil Nadu State. While so, the impugned order in G.O.Ms.No.101 is coming in the way of the administration of the institutions, which is contrary to the practice which has been hitherto followed. It is his further submission that without adhering to Articles 29 and 30 of the Constitution of India which gives complete independence in so far as the administration and Management of Anglo-Indian Schools and Linguistic Minority Schools are concerned, the impugned orders have been passed.

10.In this connection, we are of the view that only due to administrative convenience and to maintain uniformity in the system of education and to bring all the institutions in one umbrella, the impugned Government orders have been passed and hence the same cannot be treated as one in negation of the statutes by which different Educational Boards have been set up.

11.In the process of changing the old system into a new one by restructuring the administrative set up at the field level and by delegating disciplinary and administrative powers to field level officers for effective monitoring of schools and to improve the quality of education, the Government has passed the impugned orders for smooth running of the administration and not otherwise. The delegation of supervisory powers entrusted to the Chief Educational Officer, District Educational Officer etc., cannot be termed as one of transgression of powers or violation of the Rules. Whenever changes are made, there bound to be some grievances which needs to be looked into by the Government and correctional measures have to be carried out.

12.In the result, while not interfering with the impugned orders, the respondents are directed to take a suitable decision by making proper amendments in the impugned Government Orders, as a correctional measure, in accordance with the relevant Rules, considering the various grievances and infirmities, within a period of two months from the date of receipt of a copy of this order. The petitioners are permitted to make representations to the Government pointing out the infirmities.

13.The writ petitions are disposed of accordingly. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

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

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

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

4.The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.

5.The Inspector of Anglo-Indian Schools,
DPI Campus, College Road,
Chennai-600 006.

+1cc to M/s.P.Wilson Associates, Advocate in sr.no.38225

+1cc to Government Pleader in sr.no.38696

W.P.No.13687 of 2018 &
C.M.P.Nos.16143 and 16144 of 2018,
W.P.No.14169 of 2018 &
C.M.P.No.16737 of 2018
and
W.P.No.14261 of 2018 &
C.M.P.Nos.16850 and 16851 of 2018

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