

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.2260 of 2010

and

MP.No.2 of 2010

The Providence Hr.Sec.School
rep. by its Correspondent
Rev.Sister Sinna Rani

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Petitioner

Vs

1.The Director of School Education,
College Road,
Chennai - 600 006.

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

3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
Thukkalay,
Kanyakumari District.

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Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in relation to his proceedings issued in Na.Ka.No.49874/G1/E1/2009 dated 25.09.2009 and quash the same and issue a consequential direction to the respondents to grant recognition to the petitioner's school for co-education.

For Petitioner

: Mr.R.Saseetharan

For Respondents

: Mr.C.Munusamy, SGP

ORDER

This writ petition has been filed to quash the order dated 25.09.2009 passed by the first respondent and to direct the respondents to grant recognition to the petitioner School for co-education.

2.The facts of the case as averred in the writ petition are as under:

2.1 The Primary School and Middle School of the petitioner have been recognised and treated as a school for co-education. However, the Educational authorities have granted recognition for High School only for girl students. In the year 2004, the petitioner applied for recognition to treat the petitioner school as co-education at the high school level, which was returned for complying with certain defects. After compliance, they re-submitted the application to the first respondent. In the mean time, anticipating recognition, the petitioner admitted the boy students.

2.2 Finding no response on the application seeking recognition for co-education, the petitioner filed WP.No.29271 of 2008, seeking a direction to the respondents to grant recognition for co-education. Pending the said writ petition, the second respondent, by order dated 24.02.2009, granted continuation of temporary recognition for the standards 1 to 10 from 01.06.2005 to 31.05.2008. However, it has been specifically stated in the said order that the boy students beyond the age of 12 years should be arranged to be accommodated in the eligible schools. Challenging the said part of the order, the petitioner filed WP.No.5664 of 2009.

2.3 By order dated 25.06.2009, W.P.No.29271 of 2008 was disposed of, by directing the petitioner to submit a representation to the first respondent and on such submission, the first respondent was directed to dispose of the same within a period of twelve weeks. This Court by order dated 25.06.2009 made in WP.No.5664 of 2009, also granted interim direction to the respondents not to insist upon the condition that the boy students have to be shifted to be nearby school, till the disposal of the representation to be submitted by the petitioner.

2.4 As directed by this Court in WP.No.29271 of 2008, the petitioner submitted a representation dated 08.07.2009 to the first respondent, seeking recognition for co-education. However, by order dated 25.09.2009, the first respondent rejected the representation of the petitioner, stating that though the petitioner school is a minority institution, there is no rule to admit the boy students, who crossed the age of 12 years in girls' school and if the permission is granted, the same will

run contrary to the policy to establish separate school for girls. However, the petitioner was permitted to retain the boy students till 31.05.2010 and the management was directed to admit those boy students in the nearby eligible schools for the next academic year. Feeling aggrieved over the same, the petitioner has filed the present writ petition.

3.The learned counsel for the petitioner submitted that though the respondents in their counter affidavit filed in WP.No.29271 of 2008 stated that if the petitioner has submitted the required particulars in complete shape in re-application for recognition to co-education, the Director of School Education will pass orders according to the provisions. However, contrary to the said statement, the first respondent, without application of mind, has passed the impugned order dated 25.09.2009 as similar that of the order dated 24.02.2009 passed by the second respondent, directing the petitioner to accommodate the boy students who crossed the age of 12 years, to the nearby eligible schools.

4.On the contrary, the learned Special Government Pleader appearing for the respondents submitted that the first respondent, after analyzing all the papers and enquiring the matter in full, has passed the order, which is impugned in this writ petition, as per the relevant Rules. Therefore, no interference is warranted in the order so passed by the first respondent.

5.Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6.It is not in dispute that the petitioner made application seeking recognition for co-education in high school level, which was returned for complying with certain defects. After rectification, they resubmitted the application, which was not considered by the respondents. In fact, the fourth respondent, by a communication in Na.Ka.No.2254/A1/05 dated 9.6.2005 addressed to the first respondent, recommended the application submitted by the petitioner seeking recognition for co-education. Subsequently, as directed by this Court in WP.No.29271 of 2008, the petitioner submitted a representation dated 08.07.2009 enclosing all the required documents for grant of recognition for co-education. Without considering the same in proper perspective, the first respondent rejected the representation by treating it as application for permission to admit the boy students in the girls' school, by the order impugned in this writ petition, which, in my considered opinion, would disclose the non-application of mind on the part of the authority concerned. On this score alone, the order dated 25.09.2009 passed by the first respondent is liable to be set aside.

7. Accordingly, the writ petition is allowed by setting aside the order passed by the first respondent. The matter is remitted back to the first respondent for fresh consideration and the first respondent is directed to consider the request of the petitioner seeking recognition for co-education, after conducting inspection afresh and in the light of the documents produced by the petitioner and also as per the recommendation of the fourth respondent dated 09.06.2005 and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Director of School Education,
College Road,
Chennai - 600 006.
2. The Joint Director of School Education,
(Secondary Education)
College Road,
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3. The Chief Educational Officer,
Kanyakumari District,
Nagercoil,
Kanyakumari District.
4. The District Educational Officer,
Thukkalay,
Kanyakumari District.

+ 1 cc to Mr. R. Saseetharan Advocate, SR.20595
+ 1 cc to The Govt. Pleader, SR.20917

W.P.No.2260 of 2010

kgk(co)
nr 18/04/2018