

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.Nos. 31857 & 31858 of 2012
in
M.P.Nos. 2 & 2 of 2012

Kassimia Higher Secondary School,
Rep. by the Correspondent,
Rajagiri - 614 207,
Tanjur district

...Petitioner in W.P.No.31857/2018

Kassima Dawood Middle School,
Rep. by the Manager,
Rajagiri - 614 207,
Tanjur district

...Petitioner in W.P.No.31858/2018

Vs.

- 1.The State of Tamil Nadu,
Rep. by Additional Chief Secretary to the Government
Department of School Education
Fort St. George, Chennai - 9.
2. The Principal Director/State Project Director
Sarva Shiksh Abiyan
DPI Compound
Chennai - 600 006.
3. The Director of School Education,
College Road,
Chennai - 600 006.
4. The Director of Elementary Education,
College Road,
Chennai - 600 006.

..Respondents in both Wps.

Common Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to

call for the entire records relating to the impugned G.O. (Ms). No.213 School education (C2) Department dated 26.12.2011 passed by the 1st respondent and Quash the same as ultra virus of Act 35 of 2009 (Central Act) and unenforceable against the petitioner school.

For Petitioner in both WPs: M/s. S.N. Ravichandran
For RR 1 to 4 in both WPs : Mrs. V. Annalakshmi
Government Advocate

COMMON ORDER

These Writ Petitions are filed challenging the impugned order vide G.O. (Ms). No.213 School education (C2) Department dated 26.12.2011, passed by the first respondent and Quash the same.

2. It is not in dispute that the petitioner in the respective writ petitions is a religious minority institution. As the status of the petitioner as minority institution is recognised, it is well settled that the petitioner has got right to administer the minority educational institution as protected under Article 30(1) of the Constitution of India. By the impugned GO, the petitioner and similar institutions are directed to form school management committee as per the Right of Children to Free and Compulsory Education Act, 2009 and RTE Rules 2011.

3. 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 other [2014 (4) MLJ 486 486 (SC)] where in, it has been held that the Right of Children to free and compulsory education Act, 2009, has no application to minority schools.

4. In the light of the decision of the Hon'ble Supreme Court, the writ petition is allowed and G.O.(Ms).No.213 School education (C2) Department dated 26.12.2011 passed by the first respondent is quashed in so far as the petitioner in both writ petitions are concerned. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

pds/rpl

To

1. The Additional Chief Secretary to the Government,
The State of Tamil Nadu,
Department of School Education
Fort St. George, Chennai - 9.

2. The Principal Director/State Project Director
Sarva Shiksh Abiyan
DPI Compound
Chennai - 600 006.

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

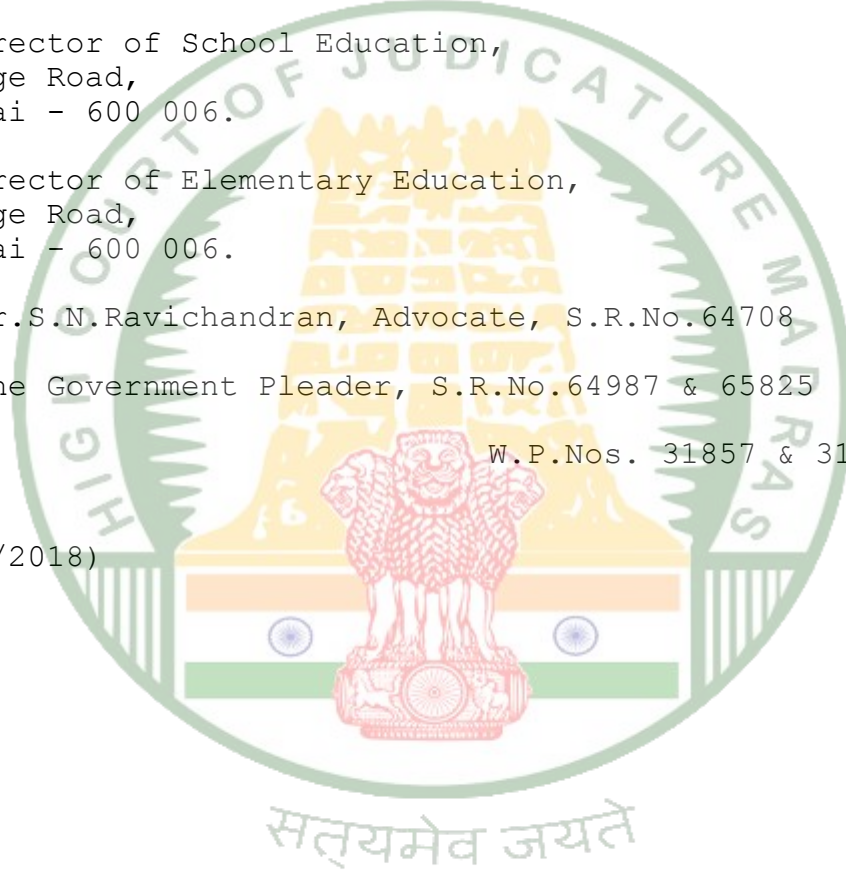
4. The Director of Elementary Education,
College Road,
Chennai - 600 006.

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.64708

+1cc to the Government Pleader, S.R.No.64987 & 65825

W.P.Nos. 31857 & 31858 of 2012

SR(CO)
GSP(17/10/2018)



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