

In the High Court of Judicature at Madras

Dated : 13.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Hon'ble Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Petition No.16938 of 2018

G.Devarajan

...Petitioner

Vs

- 1.The Secretary to the Government
of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai-600 009
- 2.The Director of Elementary Education,
EPI Campus, College Road,
Chennai-600 006
- 3.The Chief Educational Officer,
Pangal Maligai, Chennai-15
- 4.The District Elementary Educational Officer,
Thiruvallur, Thiruvallur District-602 001
- 5.The Chairman,
Private Schools Fee Determination Committee
DPI Campus, College Road,
Chennai-600 006
- 6.St.Mary Nursery and Primary School,
No.5 Kothari Road,
Kamaraj Nagar,
Kathiv Kkam,
Chennai-600 057

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of Writs of Mandamus based on
petitioner's representation dated 17.2.2018 and 20.06.2018 to
the respondents 1 to 5 to immediately shift the students
studying in the 6th respondent school to the neighbouring
Government Middle School considering safety and future of the
students.

For Petitioner : Mr.G.Devarajan

For Respondents : Mr.C.Munusamy, Spl.G.P.
For R1 to R4

ORDER

(Order of the Court was made by T.S.SIVAGNANAM,J.)

Heard Mr.G.Devarajan, petitioner appearing in person and Mr.C.Munusamy, learned Special Government Pleader, who accepts notice on behalf of respondents 1 to 4.

2. When the case was heard by us on 06.07.2018, taking note of the condition in which the School run by the 6th respondent, as seen from the photographs found in page Nos.4 and 5 of the typed set, we thought it appropriate to direct the officials, more particularly, the 3rd respondent/The Chief Educational Officer, to depute one of his officers to conduct a surprise inspection of the 6th respondent school and file a report. The said order reads as follows:

"Mr.C.Munusamy, learned Special Government Pleader accepts notice for respondents 1 to 4. Heard the petitioner - party appearing in person.

2. The petitioner has filed this writ petition, styled as a public interest litigation, contending that the sixth respondent school - a private unaided school does not have any facilities and that it is functioning in a structurally unstable building. To substantiate his stand, certain photographs have been produced, which prima facie show that the school is located in a semi permanent structure with asbestos roofing.

3. Before we issue notice to the sixth respondent, we direct the third respondent to depute one of his officials to conduct a surprise inspection in the sixth respondent school and file a report. Based on such a report, we will examine as to what relief could be granted in this writ petition. List on 13.7.2018."

3. We were conscious of the fact that the inspection is being directed to be done without notice to the 6th respondent school. The petitioner, who claims to be a Job Typist and recognised Advocate Clerk of the High Court, also states that he is playing an active role in creating awareness to the general public in many issues as a social activist of the people in the society. However, it is not very clear as to why the petitioner chose to file this writ petition as against the 6th respondent. Without going into those aspects, we thought it fit, in the

interest of the children, to know the factual position.

4. In terms of the directions issued by us, the Chief Educational Officer himself, along with other officers, has conducted an inspection and has submitted the findings, vide her letter dated 10.07.2018, addressed to the Special Government Pleader. Based on the findings of such inspection, show cause notice dated 12.07.2018, has been issued by the jurisdictional officer, viz., the Chief Educational Officer, Thiruvallur, to the 6th respondent school. We are satisfied with the action initiated by the Official concerned.

5. The learned Special Government Pleader informs us that steps would be taken to shift the children to a nearby Government School, as it appears that there are 60 children, as on date, sitting in the school, which has got classes from L.K.G. to V standard.

6. During the course of argument, the learned Special Government Pleader informed us that the writ petitioner had sent a Whatsapp message to the 3rd Respondent and has also called the office of the 3rd respondent over phone and spoken to the Personal Assistant of the 3rd respondent and his speech was in a threatening mode and the Personal Assistant of the third respondent is visibly disturbed after receiving the call.

7. When the petitioner was confronted with such a statement made by the 3rd respondent, who is present in Court today, the petitioner emphatically denied stating that he has not made any threatening phone calls and that he had called upon the office of the third respondent to inform about the direction issued by this Court and asked them to comply with the said order. The petitioner has also filed an affidavit of proof of service of the said order by Whatsapp message, to the third respondent. To be noted that the Court did not authorise the petitioner to take private notice nor authorise him to send the copy of the order by Whatsapp message. Therefore, the conduct of the petitioner in this regard cannot be appreciated. Being conscious of the fact that the matter requires a surprise inspection, we directed the copy of the order to be issued within two days, which has been received by the learned Special Government Pleader and forwarded to the third respondent, who has taken prompt action in the matter.

8. As pointed out earlier, we did not go into the aspect as to why the petitioner has chosen to file the writ petition against the 6th respondent, especially when he is not a resident of the area where the school is situated. Only we directed inspection, so as to protect the interest of the children and if it is found that the School does not comply with

the required norms, then immediate action is required. The petitioner would admit that he had sent a Whatsapp message and has also called upon the office of the third respondent, who would deny the allegation that he threatened the Personal Assistant of the third respondent. We would have taken stringent action against the petitioner for his conduct, but the petitioner has tendered unconditional apology before this Court and also tendered unconditional apology to the 3rd respondent/Chief Educational Officer. Taking note of this, we restrained from initiating any action against the petitioner, more so, when he has pleaded before this Court stating that this is the first time he has done like this and henceforth he will not do the same.

9. In the light of the prompt action initiated by the 3rd respondent, we close this writ petition as no further orders are required and direct the third respondent to proceed in accordance with law, pursuant to the show cause notice dated 12.07.2018. Accordingly, the writ petition is closed. No costs.

Sd/-
Assistant Registrar (CS-ix)

//True Copy//

Sub Assistant Registrar

msk

To

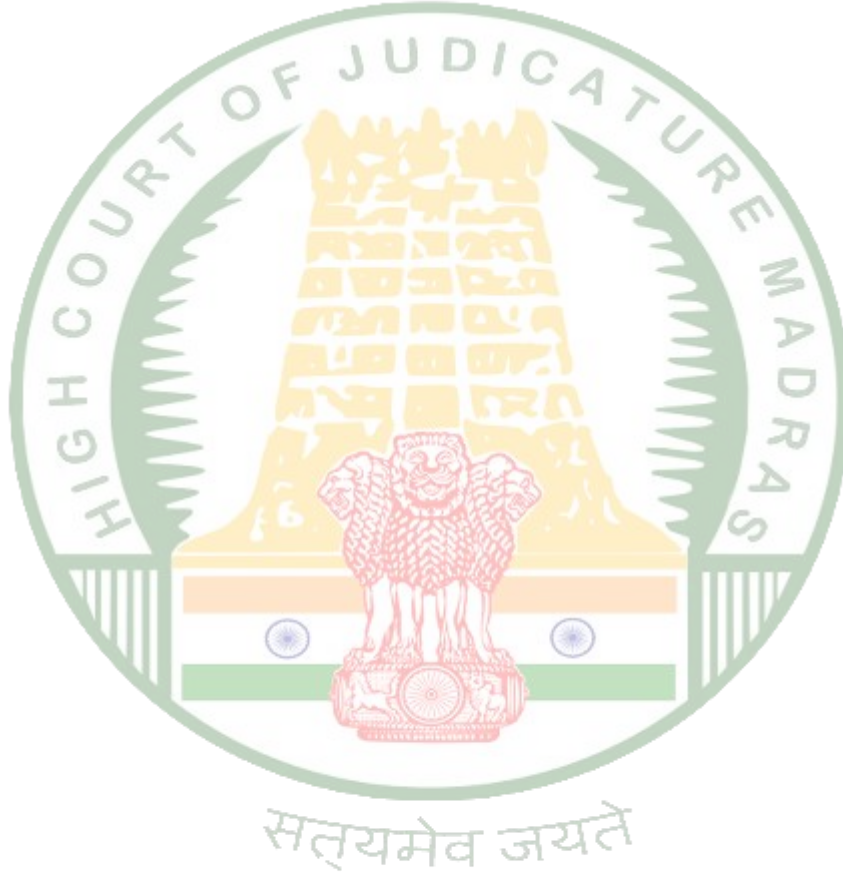
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5.The Chairman,
Private Schools Fee Determination Committee
DPI Campus, College Road,
Chennai-600 006.

+2cc to Mr.G.DEVARAJAN, Advocate, S.R.No.46425
+1cc to the Government Pleader, S.R.No.46859

WP.No.16938 of 2018

TR(16/07/2018)



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