

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.09.2018

CORAM
THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.Nos. 24134 to 24137 of 2012

SBM High, School,
Rep. by the Correspondent,
Trichy Road,
Namakkal District

...Petitioner in W.P.No.24134/2012

SBM Primary School,
Rep. by the Correspondent,
Trichy Road,
Namakkal District.

...Petitioner in W.P.No.24135/2012

Nusrathul Islam Girls Higher Secondary School
Rep. by its Secretary and Correspondent
Mr. M. Muhammad ishan
Pernambut,
Vellore District.

...Petitioner in W.P.No.24136/2012

Nusrathul Islam Aided Primary School
Rep. by its Secretary and Correspondent
Mr. M. Muhammad Ihsan
Pernambut,
Vellore District.

...Petitioner in W.P.No.24137/2012

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 all 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 all WPs : M/s. S.N. Ravichandran

For RR 1 to 4 in all WPs : Mrs. V. Annalakshmi
Government Advocate

COMMON ORDER

This Writ Petition is filed for 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 minority institution. As the status of the petitioners, in these writ petitions as minority institutions 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 petitions are 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 petitioners in these writ petitions are concerned. No costs.

Sd/-
Assistant Registrar (CS-IX)

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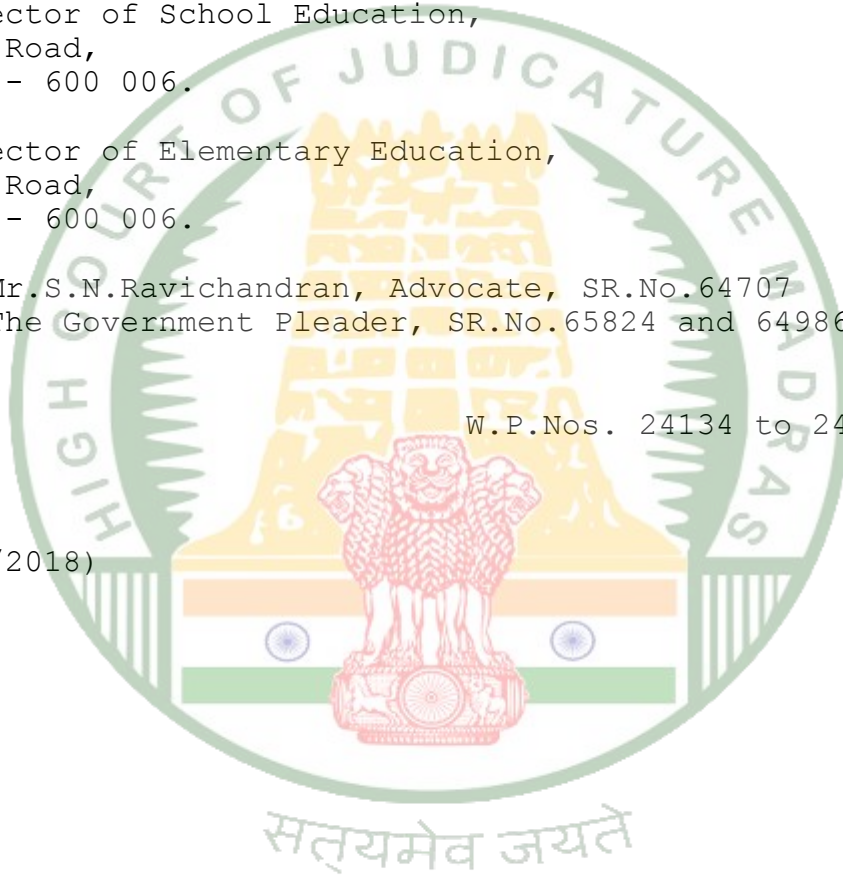
4.The Director of Elementary Education,
College Road,
Chennai - 600 006.

+2ccs to Mr.S.N.Ravichandran, Advocate, SR.No.64707
+2ccs to The Government Pleader, SR.No.65824 and 64986

W.P.Nos. 24134 to 24137 of 2012

AK(CO)

rrs(16/10/2018)



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