

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.02.2018

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.24148 to 24152 of 2012
and
M.P.Nos.2,2,2,2 & 2 of 2012

E.K.M.Abdul Gani Matharasa
Islamia High School ...Petitioner in W.P.No.24148/2012

Dr.Zahir Hussain Memorial
Minor High School ...Petitioner in W.P.No.24149/2012

Dr.Zahir Hussain Memorial Minority
Aided Elementary School ...Petitioner in W.P.No.24150/2012

E.K.M.Abdul Gani Matharasa
Islamia Primary School ...Petitioner in W.P.No.24151/2012

Dr.Zahir Hussain Memorial Minority
Aided Elementary School ...Petitioner in W.P.No.24152/2012

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 Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned G.O. (Ms) No.213 School Education (C2) Department dated 26.12.2011 passed by the first respondent and quash the same as ultra virus of Act 35 of 2009 (Central Act) and unenforceable against the petitioner school.

For Petitioners : Mr.S.N.Ravichandran (in all WPs)
For Respondents : Mr.V.Annalakshmi (in all WPs)
Government Advocate

C O M M O N O R D E R

The prayer made in these writ petitions is to quash G.O.Ms.No.213, School Education Department, dated 26.12.2011 passed by the first respondent in so far as the petitioners are concerned.

2.According to the petitioners, they are the minority institutions and have got the right to establish and administer the educational institutions as conferred under Article 30(1) of the Constitution of India. While so, the Government has issued certain guidelines in G.O.Ms.No.213 School Education (C2) Department, dated 26.12.2011, as per which, the petitioners were directed to form the School Management Committee, as the Right of Children to Free and Compulsory Education Act, 2009, mandates the same. Hence, these writ petitions.

3.When the writ petitions were taken up for consideration, the learned counsel for the petitioners and the learned Standing Counsel for the respective respondents jointly submitted that 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 others [2014 (4) MLJ 486 (SC)], wherein, it has been held that "the 2009 Act, insofar as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires the Constitution".

4.In the light of the Larger Bench decision of the Hon'ble Supreme Court as referred to above, all the writ petitions are allowed by quashing G.O.Ms.No.213, School Education (C2) Department, dated 26.12.2011 as far as the petitioners are concerned. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

mayya

To

1. The 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.
- +10 Ccs to Mr.S.M. Ravichandran, Advocate sr 10065.
+1 CC to Govt. Pleader sr 10979.

W.P.Nos.24148 to 24152 of 2012

KS(CO)
SP(07/03/2018)



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