

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :09.02.2018
CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN
W.P.Nos.24924 & 24925 of 2012

and
M.P.Nos. 2 & 2 of 2012 and 1 of 2014

W.P.No.24924 of 2012

Tippu Islamia High School
Rep by the Correspondent
No.18, First Agraharam
Salem - 636 001.

... Petitioner

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

Prayer: Writ Petition 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 vires of Act 35 of 2009 (Central Act) and unenforceable against the petitioner school.

W.P.No.24925 of 2012

Tippu Islamia Primary School
Rep by the Correspondent
No.18, First Agraharam
Salem - 636 001.

... Petitioner

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

Prayer: Writ Petition 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 vires of Act 35 of 2009 (Central Act) and unenforceable against the petitioner school.

For Petitioners : Mr.S.N.Ravichandran (in both WPs)
For Respondents : Mr.V.Annalakshmi (in both WPs)
(in both WPs) Government Advocate (For R1 to R4)

COMMON ORDER

The prayer made in these writ petitions is to quash G.O.Ms.No.213, School Education (C2) 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 10of 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, both 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.

mayaya

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Higher Education Department
Fort St. George
Chennai - 600 009.
2. The Commissioner of Technical Education
Guindy, Chennai - 600 025.
3. The Southern Regional Officer
Southern Regional Office
All India Council for Technical Education
Shastri Bhawan, Haddows Road
Chennai - 600 006.
4. The Registrar
Anna University, Guindy
Chennai - 600 025.
5. Thiruvallur College of Engineering and Technology
Thiruvannamalai, Ponnur Hills
Vandavasi 604 505.
Rep by its Principal

6.The Controller of Examinations
Anna University, Guindy
Chennai - 600 005.

+1cc to Government Pleader Sr.No.10977

sm:5.3.2018

W.P.Nos.24924 & 24925 of 2012



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