

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

THE HON'BLE MR.JUSTICE R.MAHADEVAN
W.P.Nos.28217 to 28220 of 2012
and

M.P.Nos.1,1,1, 1,2,2,2 and 2 of 2012

W.P.No.28217 of 2012

The Muslim Higher Secondary School
Rep by the Correspondent
Triplicane, Chennai - 600 005.Petitioner in W.P.No.28217/2012

Akber Naseem Aided Primary School
Rep the Correspondent
Ambur - 635 802
Vellore District.Petitioner in W.P.No.28218/2012

Madrasa-E-Deeniyath Aided Elementary School
Rep the Correspondent
No.19, Small Mosque Street
Ambur - 635 802
Vellore District.Petitioner in W.P.No.28219/2012

Banghi Hayath Basha Sahib Aided Elementary School
Rep the Manager & Correspondent
No.75/27, O.V.Road
Ambur - 635 802.Petitioner in W.P.No.28220/2012

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 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 all WPs)

For Respondents : Mr.C.Munusamy (In all WPs)
(In all WPs) Special Government Pleader (Education)

COMMON ORDER

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.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

may

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.

+1 cc to the Govt Pleader sr 10978

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