

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :09.02.2018
CORAM
THE HON'BLE MR.JUSTICE R.MAHADEVAN
W.P.No.28249 of 2012
and
M.P.Nos.1 & 2 of 2012

Nasirul Islam Aided Primary School
Rep by the Secretary & Correspondent
Muslimpur, Vaniyambadi - 635 751
Vellore District.

...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 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 Petitioner : Mr.S.N.Ravichandran

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

O R D E R

The prayer made in this writ petition 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 petitioner is concerned.

2. According to the petitioner, they are the minority institution and have got the right to establish and administer the educational institution 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 petitioner was directed to form the School Management Committee, as the Right of Children to Free and Compulsory Education Act, 2009, mandates the same. Hence, this writ petition.

3. When the writ petition was taken up for consideration, the learned counsel for the petitioner 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, the writ petition is allowed by quashing G.O.Ms.No.213, School Education (C2) Department, dated 26.12.2011 as far as the petitioner is concerned. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mayaya

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 Shiksha Abiyan
DPI Compound, Chennai - 600 006.

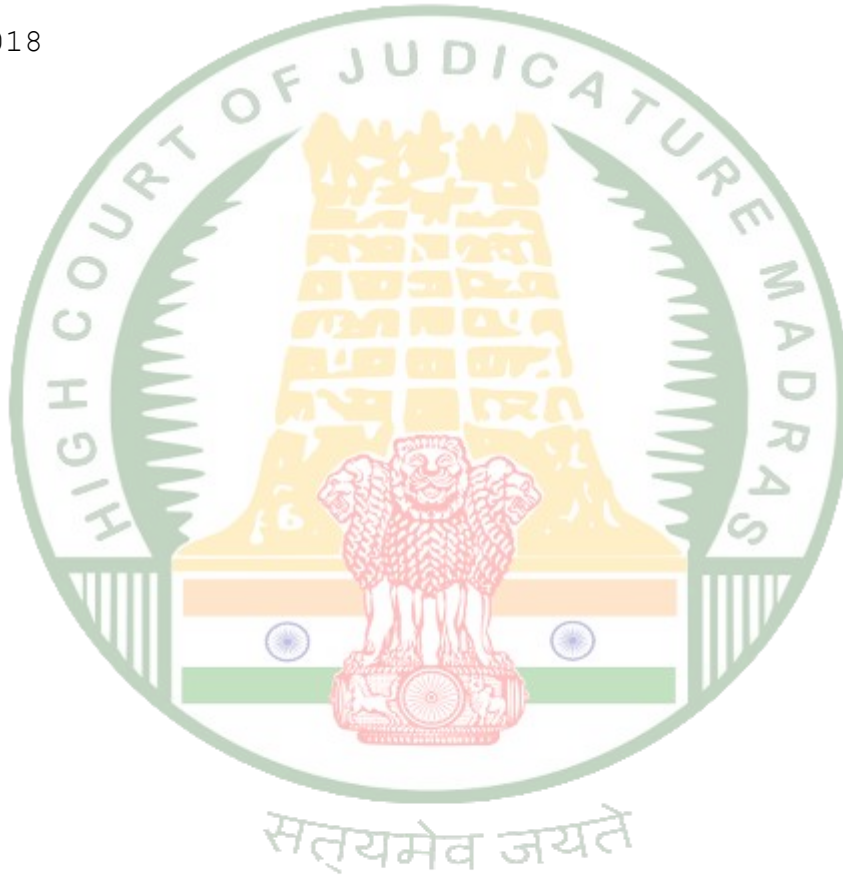
3.The Director of School Education
College Road, Chennai - 600 006.

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

+1 cc to Government pleader sr 10982

W.P.No.28249 of 2012

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