

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. Nos.31640 of 2016 & 16167 of 2017

&

W.M.P.Nos. 27455, 27456 of 2016 & 17466 & 17508 of 2017

W.P. No. 31640 of 2016

Dr.K. Prasanna Venkatachalam ...Petitioner

Vs.

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Joint Director of School
Education (HS),
DPI Campus, College Road,
Chennai - 600 006.
3. The District Educational Officer,
Government Girls Higher Secondary
School Campus,
Musiri - 621 211.
4. K.R. Sakunthala
5. Saptharisi Prasanna
6. Kartikeyan
7. K.K. Ashok ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in Na.Ka.No. 107055/W4/E1/2013 dated 14.07.2016 and the consequential order passed by the 3rd respondent in Na.Ka.No.4710/Aa1/2013 dated 01.09.2016 and quash the same and direct the respondents to allow the petitioner to administer the school, viz., Zamindhar Higher Secondary School, Kattuputhur, Trichy District, for 3 years with effect from 03.03.2015.

For Petitioner :: Mr.P. Ganesan

For Respondents :: Mr.T.M. Pappiah,
Spl. Govt. Pleader for
R1 to R3
Mr.K.H. Ravikumar for
R4 to R6
Ms.Dakshayani Reddy for
R7

W.P. No. 16167 of 2017

1. K.R. Sakunthala
2. Saptharishi Prasanna
3. K.R. Karthikeyan ..Petitioners

Vs.

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Joint Director,
Higher Secondary, DPI Campus,
College Road, Chennai - 600 006.
3. The District Educational Officer,
Mussiri, Trichy.
4. Prasanna Venkatachalam
5. K.K. Ashok
6. Akkamma Krishnamurthy ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in Na.Ka.No. 4710/A1/2013 dated 01.09.2016 and quash the same and consequently direct the 2nd respondent to recognize the educational agency submitted by the petitioners on 13.08.2016 under Form 3 of Tamil Nadu Private Schools Regulations Act, 1973.

For Petitioners :: Mr.K.H. Ravikumar

For Respondents :: Mr.T.M. Pappiah,
Special Govt. Pleader
for R1 & R2
Mr.P. Ganesan for R4
Ms. Dakshayani Reddy for
R5

COMMON ORDER

W.P. No. 31640 of 2016 has been filed for issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in Na.Ka.No.107055/W4/E1/2013 dated 14.07.2016 and the consequential order passed by the 3rd respondent in Na.Ka.No.4710/Aa1/2013 dated 01.09.2016 and quash the same and direct the respondents to allow the petitioner to administer the school, viz., Zamindhar Higher Secondary School, Kattuputhur, Trichy District, for 3 years with effect from 03.03.2015.

2.W.P. No. 16167 of 2017 has been filed for issue of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in Na.Ka.No. 4710/A1/2013 dated 01.09.2016 and quash the same and consequently direct the 2nd respondent to recognize the educational agency submitted by the petitioners on 13.08.2016 under Form 3 of Tamil Nadu Private Schools Regulations Act, 1973.

3.The parties are referred as per their rank in W.P. No. 16167 of 2017.

4.The facts of the case are as follows:

(i) The School, namely, Kattuputhur Zamindar Higher Secondary School, the administration of which is the bone of contention between the parties, was established in the year 1903 by late Chidambaram Reddiar, the ancestor of the petitioners and respondents 4 to 6. Upon his demise, his son, late Saptharishi Reddiar took over the management of the school, who had two sons, namely, Prasanna Chidambaram Reddiar and K.S. Krishnamurthy Reddiar. Late Prasanna Chidambaram Reddiar had one male heir i.e, the petitioners' father, K.P. Ramasubramanian and respondents 4 to 6 are the legal heirs of Late K.S. Krishnamurthy Reddiar. After the life span of K.P. Ramasubramanian and K.S. Krishnamurthy Reddiar, both the branches became entitled to equal management rights of the school.

(ii) While so, the 4th respondent filed a suit in O.S. No. 474 of 1992 before the District Munsif Court, Musiri, praying for framing a scheme decree by including the male heirs of late Saptharishi Reddiar alone as the members of the educational agency for the purpose of administering the school. The said suit ended in a compromise decree in the year 1993 between the 4th respondent herein and the petitioner's late father K.P. Ramasubramanian whereby the two branches agreed to be in administration of the school for three years each by rotation. Pursuant to the compromise decree, only for three terms, the

administration of the school was carried on, as per the compromise decree and thereafter, in the year 2003, disputes arose as the 4th respondent, instead of handing over the management of the school, filed a suit in O.S. No. 25 of 2004 challenging the compromise decree. Consequent thereupon, the official respondents placed the school under direct payment from the year 2004 onwards. However, in the year 2013, the said suit, namely, O.S. No. 25 of 2004 was withdrawn by the 4th respondent and instead, a writ petition was filed in W.P. (MD) NO. 15261 of 2013 for a direction to the official respondents therein to recognize/approve the educational agency with the 4th respondent as its President on the basis of the representations submitted by him. The said writ petition came to be disposed of by order dated 17.09.2013, directing the Joint Director of School Education, Chennai to dispose of the representations of the petitioner within a time limit with a further direction to cause service of notice to the other interested persons, including the parties to the civil suit in O.S. NO. 474 of 1992 and after ascertaining the genuineness of the claim made by the 4th respondent.

(iii) Subsequent to the orders passed, notice was issued by the official respondents to the parties on 18.01.2014 calling for an enquiry with regard to the recognition of the educational agency. The said notice was challenged by the 5th respondent in W.P. No. 3972 of 2014 on the ground that he was kept out of the enquiry with respect to the formation of the educational agency. The inter se dispute between the 4th and 5th respondents was resolved by directing the official respondents to also call the 5th respondent for enquiry and consider his claim as well, towards the joint management of the educational agency. Thereafter, the Joint Director of School Education (Higher Secondary), issued proceedings dated 03.03.2015 recognizing the 4th respondent as the President of the Educational Agency from 01.06.2012 to 31.05.2015 and by proceedings dated 17.03.2015, the District Educational Officer, Musiri, approved the 4th respondent as the President of the School Committee. The order dated 03.03.2015 passed by the Joint Director of School Education was challenged by the petitioners in W.P. NO. 8399/2015 for not recognizing their branch, by the 4th respondent in W.P. No. 11543 of 2015 for recognizing him only upto 31.05.2015 and by the 5th respondent in W.P. No. 8796 of 2015 for not giving him any right in the educational agency. The said writ petitions were disposed of by a common order dated 11.09.2015 directing the Joint Director of School Education (Higher Secondary) to issue notice to all the parties concerned and to pass appropriate orders and further directed that the 4th respondent shall continue in the said position but he shall not take any policy decision including any new appointments.

(iv) Thereafter, by proceedings dated 14.07.2016, the Joint Director, after hearing all the parties, passed a speaking order, whereby the petitioner's branch was to be the President of the Educational Agency and the School Committee was to be headed by the branch of 4th and 5th respondents upto 31.05.2018. By the said order, the educational agency shall consist of 6 members, 3 from the petitioners' branch and 3 from the branch of 4th and 5th respondents. The said order further recognized the petitioners as three members of the educational agency on behalf of the petitioner's branch and directed the petitioners to choose one amongst them as the President of the educational agency. So far as the branch of 4th and 5th respondents are concerned, the said order recognized both 4th and 5th respondents as members of the educational agency and directed them to choose their member either by consent or by lots. The said order further directed the petitioners to submit Form III and resolution for the formation of the educational agency under the provisions of Tamil Nadu Recognition of Private Schools Regulation Act. When the petitioners called for a meeting on 13.08.2016 for the purpose of passing a resolution and for submitting Form III, the 4th respondent remained absent and in spite of his absence, in accordance with the order dated 14.07.2016, he was chosen as the Vice President of the educational agency and Form III was forwarded to the Joint Director.

(v) However, subsequently, by proceedings dated 01.09.2016, the District Educational Officer, Musiri, placed the school under direct payment for the reason that the 4th respondent was absent in the meeting convened to appoint the educational agency and that the 4th respondent had filed an appeal before the Director of School Education as against the order dated 14.07.2016. The said order dated 01.09.2016 is under challenge in W.P. No. 16167 of 2017 while the order of the Joint Director of School Education dated 14.07.2016 is challenged by the 4th respondent in W.P. No. 31640 of 2016.

3. Heard both sides.

4. On considering the submissions made by the learned counsel for either parties and on perusal of the records, which reveal the spate of litigations between the parties for over a decade, the following order is passed

(i) As far as the branch of K.P. Ramasubramaniyan Reddiar group, namely, the petitioners in W.P. No. 16167 of 2017, are concerned, they would get three years' term to run the educational institution. After the completion of their three years' tenure, the next three years would be the turn of Dr.K. Prasanna Venkachalam and K.K. Ashok to run the educational

institution. The three year turn of Dr.K. Prasanna Venkatachalam and K.K.Ashok should be enjoyed by them alternately after the turn of the petitioners, i.e, if the petitioners run the educational institution for the first three years, then the second three year period would go to Dr.K. Prasanna Venkatachalam, the third three year period would be the turn of the petitioners and the fourth three year period would go to K.K. Ashok.

(ii) As per the order dated 14.07.2016 passed by the 2nd respondent, which is challenged before this Court in W.P. No. 31640 of 2016, the petitioners in W.P. No. 16167 of 2017 have to head the educational institution and the said order has not been given effect to, in view of the order passed by this Court. Since all the parties have agreed to run the educational institution, as per the above arrangement, all the parties are directed to sign Form III and submit the same to the educational authorities within one week from the date of receipt of a copy of this order and on receipt of the said Form III, the 2nd respondent is directed to remove the school from direct payment within one week thereafter.

(iii) The order dated 14.07.2016 would take effect from 01.10.2018 by which the petitioners in W.P. No. 16167 of 2017 would head the educational institution and after the expiry of three years from 01.10.2018, Mr.K.K. Ashok, the 5th respondent in W.P. No. 16167/2017/7th respondent in 31640/2016 would get the opportunity to run the educational institution on the side of K.S. Krishnamurthy Reddiar group, followed by the petitioners in W.P. No. 16167/2017 again and thereafter, Dr.K.Prasanna Venkatachalam, 4th respondent in W.P. No. 16167/2017/petitioner in W.P. No. 31640/2016 would get his turn to run the educational institution. Likewise, all the parties are entitled to head the educational institution in turns."

5. In the result, W.P. No. 31640/2016 is dismissed and W.P. No. 16167 of 2017 is allowed. No costs. Connected W.M.Ps are closed.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

nv

To

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Joint Director of School
Education (HS),
DPI Campus, College Road,
Chennai - 600 006.
3. The District Educational Officer,
Government Girls Higher Secondary
School Campus,
Musiri - 621 211.

+1cc to Mr.K.H.Ravikumar, Advocate SR.No.63025

+1cc to Mr.V.Sankaranarayanan, Advocate SR.No.63274

+1cc to M/s.Dakshy Anireddy, Advocate SR.No.63404

+2cc to Government Pleader SR.No.63834,63835

+2cc to M/s.C.S.Associates, Advocate SR.No.63243,63244

W.P. Nos. 31640/2016 &
16167/2017

GMV (10/10/2018)



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