

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2018

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

W.A.No.2323 of 2018

S.Diraviam Dinesh

.. Appellant

Vs.

- 1.The Regional Officer - Chennai,
CBSE, New No.3, Old No.1630 A, 'J Block',
16th Main Road, Anna Nagar (West)
Chennai - 600 040.
- 2.The Deputy Secretary (AFF),
CBSE, Shiksha Kendra, Community Centre
Preet Vihar, Delhi - 110 092.
- 3.The Public Grievance Redressal Officer &
Deputy Secretary
CBSE, New No.3, Old No.1630 A, 'J'Block
16th Main Road, Anna Nagar (West)
Chennai - 600 040.
- 4.Silicon City Public School
Silicon City Academy of Secondary Education
Kumar Nursery, New Bank Colony
Konanakunte, Bengaluru - 560 062.
Rep by its Chairman Dr.K.S.Sameera Simha
- 5.The Principal
Silicon City Public School
Kumar Nursery, New Bank Colony,
Konanakunte, Bengaluru - 560 062.
- 6.K.N.Lakshmy
- 7.Holy Queen Matriculation School
No.25, Thiruvalluvar Street, Gandhi Nagar
Nagelkeni, Chennai - 600 044.
Rep by its Correspondent, Mr.Jeya Sagaya Sathish
.. Respondents

Prayer : Writ Appeal filed to set aside the order dated 19.07.2018 made in W.P.No.3241 of 2018. Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for entire records of the order CBSE/ RO (M)/ DS/ PG / 2018 dt 13.1.2018 passed by the 3rd respondent on the petitioner's representation dt 26.12.2017 to the 1st respondent and quash the same and direct the respondents 1 and 2 to consider the petitioner's representation, dt 26.12.2017 afresh to initiate appropriate action as against the 4th respondent, Silicon City Public School, Bengaluru for malpractice in admission and subsequent fraudulent cover up acts.

For Appellant : Mr.S.Diraviam Dinesh
Party-in-Person

JUDGMENT

[Judgment of the Court was made by M.SATHYANARAYANAN, J.,]

The appellant is the writ petitioner and he has filed W.P.No.28352 of 2017 and W.P.No.3241 of 2018 for the following reliefs :

"In WP.No.28352 of 2017 : Issuance of Writ of Mandamus to direct the respondents 1 to 3, therein to consider the petitioner's representation dated 24.10.2017 to initiate stringent action against the 4th respondent - Holy Queen Matriculation School, Nagelkeni, Chennai for issuing bogus TC with Community misrepresentation as Scheduled Caste."

"In WP.No.3241 of 2018 : Issuance of Writ of Certiorarified Mandamus to call for entire records of the order vide CBSE/RO(M)/DS/PG/2018, dated 13.01.2018 passed by the third respondent on the petitioner's representation dated 26.12.2017 to the first respondent and quash the same and direct the respondents 1 and 2 to consider the petitioner's representation, dated 26.12.2017 to afresh to initiate appropriate action as against the fourth respondent, Silicon City Public School, Bengaluru for malpractice in admission and subsequent fraudulent cover-up acts."

and after contest, the writ petition in W.P.No.28352 of 2017 was disposed of with some observations and W.P.No.3241 of 2018 came to be dismissed, vide impugned common order dated 19.07.2018 and

challenging the dismissal of W.P.No.3241 of 2018, the present appeal is filed.

2. The facts leading to the present litigation have been narrated in detail and in extense the impugned order is a subject matter of challenge in this appeal and therefore, it is unnecessary to re-state the facts once again, except to cull out the relevant facts essential for the purpose of this writ appeal.

3. A perusal of the materials placed before this Court would indicate that there arose a difference of opinion between the appellant/writ petitioner and his wife, namely Dr.K.N.Lakshmy, who is arrayed as the fifth respondent. It is not in serious dispute that the appellant/writ petitioner is the biological father of Miss.Keerthana Dinesh, born out of wedlock between him and the sixth respondent.

4. The appellant/writ petitioner is a Medical Research Scientist with International recognition in the field of Bacterial Infections and Cancer Research, and he is presently practising as an Advocate. Originally his daughter was pursuing her education at St.Raphael's Cathedral School (CBSE), Palakkad, Kerala. The sixth respondent herein, who is the wife of the appellant and the mother of the child, took away her daughter from the custody of the appellant to a different place, after completion of her II Standard in 2012, and thereafter, she admitted her in one Silicon City Public School, Konanakunte, Bengaluru. It appears that the sixth respondent/wife, while admitting her daughter in the said school at Bengaluru, got a Transfer Certificate issued by Holy Queen Matriculation School, Nagelkeni, Chennai (7th respondent herein).

5. The appellant/writ petitioner developed suspicion, made a thorough enquiry and found that his daughter Keerthana never studied in the seventh respondent-School, but however his estranged wife, managed to get a fake Transfer Certificate from the said school and got her child admitted in the school at Bengaluru (4/5th respondent herein) on 12.01.2013.

6. Thereafter, the appellant approached the Silicon City Public School, Bengaluru, to know about the admission of her daughter in the said school, and since no response is forthcoming, he enquired through RTI, wherein he got the required details viz., the admission of her daughter in the fourth respondent-School and a copy of the fake T.C. issued by the seventh respondent-School.

7. The grievance now expressed by the appellant is that though her daughter had completed her III Standard in a school

in Palakkad, she was again admitted in III Standard for the second time in the Silicon City Public School, at the instance of the sixth respondent, and on coming to know, the appellant had personally visited and appraised the facts to the fourth/fifth respondent-School, and also represented that her daughter suffered a loss of one academic year and hence, sought for a positive and appropriate action in this regard. But there was no response to his representation. Aggrieved which, the appellant lodged a complaint against the fourth/fifth respondent School before the Central Board of Secondary Education, Chennai.

8. In reply, the Public Grievances Redressal Officer & Deputy Secretary of CBSE, Chennai, the third respondent herein vide communication dated 15.01.2018, would state among other things that the complaint of the appellant as to the Transfer Certificate issued by the seventh respondent-School, and an admission into the fifth respondent-School, was enquired into with the Principal of the fifth respondent-School, who in response has stated that they have not deviated from the procedure for admission, laid down by the CBSE. It is further stated in the said communication that the fifth respondent-School have also submitted an explanation and produced documentary evidences relating to the admission of the appellant's daughter to the concerned authorities and the DDPI has personally visited the said School and spoken to the appellant's daughter and verified all the facts with her, wherein she had requested that she should not be disturbed from the said School because of the dispute among their parents. Citing the aforesaid reasons and taking into consideration the deposition of Keerthana, the appellant's daughter, the complaint lodged against the fourth respondent-School is closed.

9. Aggrieved which, the appellant has filed two writ petitions viz., W.P.No.28352 of 2017 and W.P.No.3241 of 2018, seeking for the relief as stated in the opening paragraph.

10. Both the writ petitions were entertained and notices were ordered and the respective counsels have entered appearance in the said writ petitions.

11. The learned Single Judge on thorough consideration and appreciation of the materials, has reached the conclusion that the alleged Transfer Certificate issued by the seventh respondent-School at the instance of the sixth respondent, is a fake one and has also found that in the said Certificate, the Community status of the appellant's daughter was indicated as "Scheduled Caste", whereas she belongs to the "Backward Community". However, taking into consideration the fact that the child is the appellant's daughter, deem it fit and expected the appellant to discharge his obligation towards his child's

education and therefore dismissed the writ petition in W.P.No.3241 of 2018 and simultaneously closed the writ petition in W.P.No.28352 of 2017.

12. Challenging the legality of dismissal of W.P.No.3241 of 2018, the present writ appeal is filed. The appellant/writ petitioner appearing as Party-in-Person has invited the attention of this Court to the impugned order and would submit that almost all the observations/findings are in his favour, except the result portion of the order, and though the learned Judge has reached a categorical finding that the Transfer Certificate issued by the seventh respondent-School is a fake one, has still dismissed the writ petition, which is per se unsustainable.

13. It is the further submission of the appellant/party-in-person that he is also prosecuting a case in C.C.No.257 of 2014 on the file of Judicial Magistrate, Tambaram against the seventh respondent-School and the trial of the case is in the mid-way, and challenging the complaint in C.C.No.257 of 2014, the seventh respondent-School and his estranged wife, the sixth respondent herein have filed a quash petition in Crl.OP.No.23407 of 2016 before this Court, and also obtained an order of stay of the proceedings in C.C.No.257 of 2014 and accordingly the trial Court proceedings have been stayed, and that he is now taking steps to vacate the interim order granted and that he is also praying for the disposal of the said Crl.OP. filed by the sixth and seventh respondent herein, at an early date.

14. It is also the submission of the appellant/party-in-person that despite all the facts being provided to the knowledge of the Central Board of Secondary Education Authorities, the respondents 1 to 3 herein have not considered any of the grievances of the appellant and by a cryptic order, has closed the complaint of the appellant and hence prays for interference.

15. This Court paid it's anxious consideration and best attention to the submissions made by the appellant/writ petitioner/party-in-person and also perused the materials placed in the form of typed set of documents.

16. As rightly pointed out by the appellant/party-in-person in the impugned order, almost all observations are in favour of the appellant/party-in-person. The Central Board of Secondary Education authorities have also taken into consideration the sensitive nature of the issue involved, and has personally interviewed the child of the appellant and since the child had told them that the school i.e., the fourth/fifth respondent-School, in which she is now studying, should not be disturbed on

account of personal dispute between her parents, and taking her deposition into consideration, the Central Board of Secondary Education authorities thought fit to give a closure to the complaint given by the appellant/party-in-person.

17. It is very pertinent to point out at this juncture that the child is now aged 13 years and she got admitted in III Standard in the fourth/fifth respondent-School in the year 2013 and now she has completed her education in the said school for nearly five years, and it also appears from the communication dated 15.01.2018, received from the Central Board of Secondary Education, which is impugned herein, the appellant's daughter is very comfortable in the said School and it is also her endeavour that owing to the dispute between her parents, her education in the said School should not be disturbed.

18. In the light of the above facts, this Court, exercising "Parens patriae" apparent and broader jurisdiction in the case of a minor child's education and in the light of the sentimental wishes expressed by Minor D.Keerthana and that the appellant/writ petitioner is also prosecuting a criminal case in the form of private complaint against the sixth respondent/wife and seventh respondent-School, and depending upon the outcome of result of the said prosecution, he is always at liberty to work out his further remedy against the fourth/fifth respondent-School, is not inclined to interfere with the impugned order. The learned Judge, considering the interest and welfare of the child, born to the appellant and the sixth respondent, has rightly reached the conclusion to dismiss the writ petition.

19. This Court on an independent application of mind to the entire materials placed, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the learned Judge in dismissing the said writ petition.

20. In the result, this writ appeal stands dismissed, confirming the order dated 19.07.2018 passed in W.P.3241 of 2018, subject to above observations. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

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To

1.The Regional Officer - Chennai,
CBSE, New No.3, Old No.1630 A, 'J Block',
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16th Main Road, Anna Nagar (West)
Chennai - 600 040.

+2ccs to Mr.S.Diraviam Dinesh, Advocate SR.No.88197

W.A.No.2323 of 2018

AD(CO)
GMY(29/01/2019)



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