

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No. 25160 of 2018

Vallalar Illam,
A Society rep. by its Secretary,
P.G.S. Kannan,
Kurinji Nagar,
Nallampalli Taluk,
Dharmapuri District. ...Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
- 3.The District Educational Officer,
Palakode,
Dharmapuri District. ...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd Respondent in Mu.Mu.No.1752/A1/2017 dated 28/06/2018 and the impugned proceeding issued by the 2nd respondent in Na.Ka.No.18161/F2/2018 dated 14/08/2018 and Quash the same and consequently direct the Respondents herein to forthwith sanction teaching post to the Petitioner School in accordance with cadre strength for the standards 6 to 8 with financial aid.

For Petitioner : M/s. A. L. Ganthimathi

For Respondents : Mrs. V. Annalakshmi
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to Quash the proceedings issued by the 2nd respondent in Na.Ka.No.18161/F2/2018, dated 14/08/2018 and consequently direct the respondents herein to forthwith sanction teaching post to the Petitioner's School in accordance with the student's strength in standards 6 to 8.

2. The petitioner is a Society registered under the Societies Act. The petitioner is running a school named Vallalar Arivalayam Middle School. The School was started with standards 1 to 5 on Government aid in the year 1988-1989 and was upgraded into Middle School from the academic year 1994-95.

3. It is not in dispute that the petitioner is getting aid upto fifth Standard and the School was upgraded into Middle School only from the academic year 1994-95. It is stated by the petitioner that even the Child Welfare Committees are sending children to the petitioner's Home and the petitioner is giving education to them and also to poor and destitute children and to abandoned juveniles. It was therefore, the petitioner made representation to respondents to consider the petitioner as a special case to sanction Teachers in the year 2017.

4. However, the request of the petitioner was not considered by the respondents by saying that it is the policy of the Government not to grant aid and sanction posts to Self Financing Schools. Even thereafter, the petitioner has made several representations.

5. It is submitted that the petitioner's School is being run for providing Education to destitute, poor and orphan children. It is further stated the school is collecting funds only from few noble donors. It is stated by the learned counsel for the petitioner that the students are very much affected even though they have right to free and compulsory education.

6. It is true that every children poor or destitute have the Right to Free and Compulsory Education until they complete their Elementary Education. After repeated representations, the first respondent has passed the impugned order rejecting the petitioner's representation. The third respondent has passed the impugned order on 28.06.2018 and the second respondent has passed the order on 14.08.2018.

7. The 3rd respondent has found that the petitioner has given undertaking not to seek financial assistance or aid for the School, when they wanted recognition for the School. It is further stated that the Head Master of the school has specifically given an undertaking not to get additional post for the School. The Government has taken a decision to the effect that no Private School started after 1991-92 is eligible for any grant. The impugned order of the 3rd respondent also refers to Section 14-A of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973, wherein, it has been specifically stated that no grant shall be paid to any Private School established on or after the commencement of the academic year 1991-1992.

8. When there is a statutory bar, the petitioner cannot seek financial aid or concession from the Government for running the Middle School, viz., classes from standard six to eight. This Court cannot issue a Writ of Mandamus in violation of the statutory provision.

9. This court is aware of the fact that the Government has taken a policy decision not to grant aid to any school, which was commenced after 1991-92. This decision is in public interest. The order impugned in this Writ Petition is passed by the the third respondent, dated 28.06.2018 and the second respondent has also passed the order dated 14.08.2018, following the order of third respondent.

10. The impugned order is in compliance of the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973. Hence, there is no reason to interfere with the order passed by the respondents or to issue any direction to the respondents contrary to the provisions particularly Section 14-A of the Tamil Nadu recognised Private School Regulation Act. Hence this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.

3.The District Educational Officer,
Palakode,
Dharmapuri District.

+1cc to M/s.A.L.Gandhimathi, Advocate SR.NO.66110
+1cc to Government Pleader SR.NO.66642

VSNI(CO)
sm:17.10.2018

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