



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD)No.143 of 2018 and
W.P. (MD)Nos.15650 and 22911 of 2017
and
C.M.P. (MD)Nos.726 and 727 of 2018 and
W.M.P. (MD)Nos.12370, 12371 and 19214 of 2017

W.A. (MD)No.143 of 2018 :

Sri Varadha Venkata Ramana Vidhyalaya Sabai,
Represented by its Secretary,
(Registration No.160 of 1999),
Venkatachalapuram Post,
Theni Taluk and District.

: Appellant / Petitioner

Vs.

1.The District Educational Officer,
Periyakulam,
Theni District.

2.The Registrar of Societies,
Periyakulam,
Theni District.

3.Sri Varadha Venkata Ramana
Higher Secondary School,
Represented by its Headmaster,
Venkatachalapuram,
Theni District.

4.P.Raju

5.T.Lenin

: Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of Writ Court dated 18.08.2017, made in W.P. (MD) No.15470 of 2017.

Prayer in WP(MD). 15470/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the first respondent from approving any proposal to promote the fifth respondent pending disposal of the disciplinary action contemplated against him.



For Appellant : Mr.H.Arumugam
For Respondents 1&2 : Mrs.S.Srimathy,
Special Government Pleader
For Respondent No.3 : No Appearance
For Respondent No.4 : Mr.K.Prabhu
For Respondent No.5 : Mr.B.Saravanan

W.P. (MD)No.15650 of 2017:

T.K.N.Raju : Petitioner

vs.

1.The District Educational Officer,
Periyakulam,
Theni District.

2.Sri Varadha Venkata Ramana Vidhyalaya Sabai,
(Registration No.160 of 1999),
Through its Secretary,
Door No.103/3, West Street,
Venkatachalapuram Post,
Veerapandi Via., Theni Taluk & District. : Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order dated 14.09.2015 in Na.Ka.No.4232/A1/2015, passed by the first respondent and quash the same.

For Petitioner : Mr.J.Barathan
For Respondent No.1 : Mrs.S.Srimathy,
Special Government Pleader
For Respondent No.2 : Mr.H.Arumugam

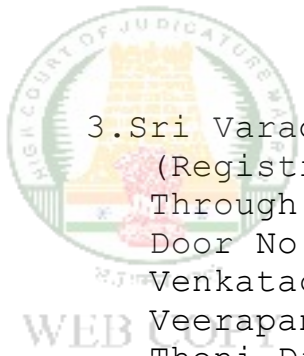
W.P. (MD)No.22911 of 2017:

1.K.Jegadeesan
2.N.V.Seenivasan
3.E.Nagaraj
4.G.Dhamotharan : Petitioners

vs.

1.The Chief Educational Officer,
Theni District.

2.The District Educational Officer,
Periyakulam,
Theni District.



3.Sri Varadha Venkata Ramana Vidhyalaya Sabai,
(Registration No.160 of 1999),
Through its Secretary,
Door No.103/3, West Street,
Venkatachalapuram Post,
Veerapandi Via., Theni Taluk,
Theni District.

4.Sri Varadha Venkata Ramana
Higher Secondary School,
Represented by its Headmaster,
Venkatachalapuram,
Theni District.

5.P.Raju
6.G.Athimoolam
7.P.V.Ramamoorthy
8.C.Thinakaran
9.S.Ananthappan
10.P.R.Latha
11.N.Seenivasan
12.S.Murugesan
13.T.Lenin

: Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents 1 and 2 from approving any proposal sent by the School Committee of the fourth respondent School consisting of the respondents 10 and 11 to promote the thirteenth respondent from the post of Physical Education Teacher to the post of B.T. Assistant (History).

For Petitioners : Mr.J.Barathan
For Respondents 1&2 : Mrs.S.Srimathy,
Special Government Pleader
For Respondents 3 : No Appearance
For Respondents 4to12: Mr.K.Prabhu
For Respondent 13 : Mr.B.Saravanan

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

The subject matter of the Writ Petitions involves multiple disputes between the parties with respect to the constitution of the School Committee and the promotion of the fifth respondent in W.A.(MD)No.143 of 2018. Therefore, we deem it appropriate to take all the matters and dispose of by a common judgment.



Secretary is the authority to conduct the election in constituting a School Committee. Action was contemplated against the fifth respondent in W.A.(MD)No.143 of 2018, who is working as a Physical Education Teacher. At least, now, it appears that the above said action was dropped. The School Committee made a recommendation. This recommendation is pending consideration with the District Educational Officer, Periyakulam, Theni District. Seeking a direction not to approve the proposal of the School Committee, a Writ Petition was filed, which was dismissed. This was sought for pending disposal of the disciplinary action against the fifth respondent in W.A.(MD)No.143 of 2018. The other Writ Petition had been filed questioning the very constitution of the School Committee. In effect, what the writ petitioners would contend is that such a proposal sent by the School Committee, which is not competent as per Rule 12 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, cannot be sustained in the eye of law. Therefore, we deem it appropriate to take all the matters and dispose of by a common judgment.

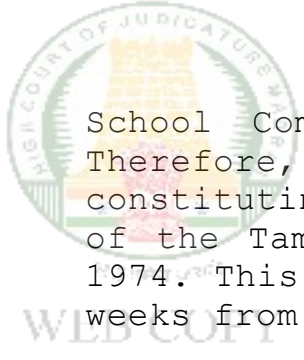
3. As noted above, the very charge against the fifth respondent in W.A.(MD)No.143 of 2018 has been dropped. In fact, there is no charge which has been specifically framed except the allegation. A Writ of Mandamus would not lie to prevent a Statutory Authority from functioning. Therefore, in law, the District Educational Officer, Periyakulam, Theni District, cannot be stopped from acting in accordance with law. What the petitioners can otherwise seek is to put forth their views before the aforesaid authority, while taking a decision in approving the proposal sent for promotion.

4. In such view of the matter, we permit all the parties to give their views to the District Educational Officer, Periyakulam, Theni District, within a period of four weeks from the date of receipt of a copy of this judgment and based upon the same, the said authority would take a final decision, within a further period of six weeks thereafter.

5. The other question is with respect to the constitution of School Committee. Admittedly, the period of School Committee is over. Therefore, we do not wish to undertake an academic exercise in this regard. The very challenge as it appears has come into being, in view of the proposal sent by the then School Committee. To put it differently, but for the proposal sent by the School Committee seeking approval for the promotion of the fifth respondent in W.A.(MD)No.143 of 2018, there would not have been any challenge. That is a reason why, notwithstanding the constitution of School Committee in the year 2015, a challenge was made only in the year 2017, that too, after the proposal was sent.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Be that as it may, now there is no School Committee in existence. The competent authority to conduct the election of the



School Committee is the appellant in W.A.(MD)No.143 of 2018. Therefore, the appellant is permitted to undertake the exercise of constituting the new School Committee in accordance with Rule 12 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974. This exercise will have to be done, within a period of eight weeks from the date of receipt of a copy of this judgment.

7. The Writ Appeal and the Writ Petitions stand disposed of accordingly.

8. We make it clear that in view of the order passed, all the findings rendered by the learned Single Judge, which is the subject matter in W.A.(MD)No.143 of 2018, along with the imposition of cost were set aside.

No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-III)

To

- 1.The Chief Educational Officer,
Theni District.
- 2.The District Educational Officer,
Periyakulam,
Theni District.
- 3.The Registrar of Societies,
Periyakulam,
Theni District.

+2cc to Mr.K.Prabhu, Advocate, Sr.No.91855 & 91856.
+1cc to Mr.H.Arumugam, Advocate, Sr.No.91367.
+1cc to Special Government Pleader, Sr.No.91390.
+1cc to Mr.T.R.Jeyapalan, Advocate, Sr.No.91451
+2cc to Mr.K.Saravanan, Advocate, Sr.No.91291 & 91292.

Common Judgment made in
W.A.(MD)No.143 of 2018 and
W.P.(MD)Nos.15650 and 22911 of 2017
Dated: 23.10.2018

sml