



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.38 of 2018
and
C.M.P(MD)No.217 of 2018
in
WP(MD)No.9453 of 2014

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai - 600 006.
- 3.The District Elementary Educational Officer,
T.R Naidu Street, Tuticorin,
Tuticorin District.
- 4.The Assistant Elementary Educational Officer,
Tuticorin (Urban), Tuticorin,
Tuticorin District. ... Appellants/Respondents

Vs.

The Manager and Correspondent,
Carpenter Street Middle School,
Gopalasamy Street,
Tuticorin - 628 001,
Tuticorin District. ... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order, dated 04.02.2015 made in W.P(MD)No.9453 of 2014 on the file of this Court.

Prayer in WP(MD) . 9453/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order issued by the 1st respondent State Government vide G.O. Ms. NO. 96



(School Education (Ne.Va.2) Department dated 20.06.2013 and quash the same in so far as it restricts the minority status of the petitioner's school, to a limited period of 5 years viz., 2013- 2018.

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For Appellants : Mr.A.K.Baskara Pandian,
Special Government Pleader

For Respondent : Mr.Isaac Mohanlal
Senior Counsel for
Mr.T.Cibichakaraborthy

JUDGMENT

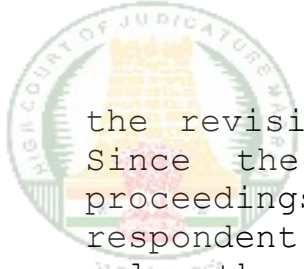
(Judgment of the Court was delivered by
M. SATHYANARAYANAN, J.)

By consent, the Writ Appeal itself is taken up for final disposal.

2.The respondent herein has filed a Writ Petition in W.P(MD)No.9453 of 2014 praying for issuance of a Writ of Certiorari to quash the impugned order passed by the first appellant/first respondent in G.O.Ms.No.96 (School Education (Ne.Va.2) Department, dated 20.06.2013 and to quash the same insofar as minority status of the respondent/petitioner's School, within a limited period of five years between 2013 and 2018.

3.The facts leading to the filing of this Writ Appeal have been narrated in detail in the Writ Petition and extension of the impugned order is the subject matter in this Writ Appeal and therefore, it is unnecessary to re-state the entire facts once again.

4.The basic facts are that the respondent/petitioner's School is a religious minority institution and it is being administered by Baptised Christians from the year 1865 till date for the welfare of Christians religious minority community and it is also recognized as an aided minority Educational Institution. The medium of instruction is Tamil. The third respondent, vide proceedings in Na.Ka.No.10572/A3/97, dated 09.11.1998 has informed the respondent/petitioner that it is a non-minority School. Challenging the same, a revision was preferred and the first appellant/first respondent has called for a report from the second appellant/second respondent, as to the award of the minority status to the respondent/petitioner School, as per G.O.Ms.No.375 (School Education Department), dated 12.10.1998 and the report was also submitted and since no orders have been passed in the revision for nearly two years, the respondent/petitioner filed a Service Department case No.1179 of 2001 before the Principal Bench of this Court and this Court, vide order, dated 26.06.2001, has directed that the first appellant/first respondent to dispose of

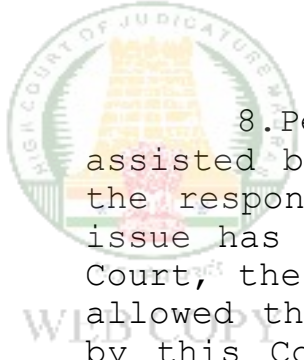


the revision, dated 21.11.1998 within a period of three months. Since the said order has not been complied with, contempt proceedings were also initiated against the first appellant/first respondent in Contempt Petition No.64 of 2002 and thereafter, only, the impugned G.O came to be passed rejecting the request of the respondent/petitioner. Challenging the same, the Writ Petition was filed.

5.The Writ Petition was entertained and notices were ordered and on entering appearance, the third respondent filed counter affidavit stating among other things that as a supervisory authority of an Aided School, they are competent to impose some conditions, in the interest of student community at large, since all along the respondent/petitioner School is a non-minority School for the past 90 years and suddenly, they wanted minority status. On that pretext, the Government has given several concessions to the minority institutions and only in order to prevent the misuse of the said benevolence, the period of minority status is sought to be restricted.

6.The learned Single Judge, after taking into consideration the rival submissions and the materials placed on record and also the decision rendered by the Division Bench of this Court in the Secretary, Jeyaraj Annapackiam College for Women Autonomous Vs. State of Tamil Nadu rep. By its Secretary and others reported in 2013 Vol 8 MLJ 509 and yet another Judgment in C.S.L Institute of Technology, Thovalai Vs. The Government of Tamil Nadu reported in 2004 WLR 202 and in Asan Memorial Association Vs. The State of Tamil Nadu reported in 2009 (6) CTC 579, has found that the first appellant/first respondent is not justified in restricting the minority status to the respondent/petitioner only for a period of five years and allowed the Writ Petition and quashed the impugned order and restricted the minority status only for a period of five years and the official respondents in the Writ Petition, challenging the legality of the same, came forward to file this Writ Appeal.

7.Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the appellants/respondents, would submit that though the respondent/petitioner Institution claims that it is in existence for 90 years and later on, they want the status of minority may be on account of fact that for the welfare and interest of the student community, the authority, who has granted aid to the institution, is entitled to impose the conditions restricted and it cannot be found fault with and the learned Single Judge, without properly appreciating the facts and circumstances and the relevant legal position, has erroneously set aside the portion of the Government Order and prays for allowing the Writ Appeal and thereby setting aside the order passed in the Writ Petition.



8.Per contra, Mr.Isaac Mohanlal, learned Senior Counsel assisted by Mr.T.Cibichakaraborthy, learned counsel appearing for the respondent/petitioner, would submit that since the matter in issue has been covered by a catena of decisions rendered by this Court, the learned single Judge has rightly followed the same and allowed the Writ Petition which may not warrant any interference by this Court in exercise of Article 226 of the Constitution of India and therefore, he prays for the dismissal of this Writ Appeal.

9.This Court paid its anxious consideration and best attention to the rival submissions and also perused the materials available on record.

10.In the decision in the Secretary, Jeyaraj Annapackiam College for Women Autonomous Vs. State of Tamil Nadu rep. By its Secretary and others reported in 2013 Vol 8 MLJ 509, the Division Bench of this Court has considered the earlier decision, which has been subsequently followed in two other decisions, which in turn make a reference as well as to the earlier decision in C.S.L Institute of Technology, Thovalai Vs. The Government of Tamil Nadu reported in 2004 WLR 202 and in Asan Memorial Association Vs. The State of Tamil Nadu reported in 2009 (6) CTC 579 and found that in the guideline issued by the Government in G.O.Ms.270, Higher Education (J1) Department, dated 17.06.1998, nowhere, it has been stated that the minority status can be given for a limited period.

11.In the considered opinion of this Court, the said legal position is in subsistence, even as on today and the issue arose for consideration in this Writ Appeal is no longer res integra, in the light of the settled legal position. The learned Single Judge has correctly applied the same and quashed the impugned G.O in so far as restricting the minority status for a limited period of five years.

12.This Court, on an independent application of mind to the entire materials placed on record, is of the view that there is no infirmity or error apparent in the reasons assigned for dismissing the writ petition.

13.In the result, this Writ Appeal is dismissed, confirming the order, dated 04.02.2015, passed in W.P(MD)No.9453 of 2014. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(C.O.)

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To

1.The Secretary,
Rep. By the State of Tamil Nadu,
Department of School Education,
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Chennai - 600 009.

2.The Director of Elementary Education,
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3.The District Elementary Educational Officer,
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4.The Assistant Elementary Educational Officer,
Tuticorin (Urban), Tuticorin,
Tuticorin District.

+1CC to M/s.Isaac Chambers,SR.No. 41092

W.A (MD) No.38 of 2018
05.01.2018

ps

AM/SV MMS/SAR 1/18.01.2018/5P/6C