



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.07.2018

CORAM:

**THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.P. [MD].No.16139 of 2018
and
W.M.P (MD) .No.14372 of 2018**

D.Raju : Petitioner
Vs.

1. The Union of India,
Represented by its Secretary,
Ministry of Human Resource and Development Department,
Shastri Bhawan, New Delhi 110 001.

2. The State of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, Chennai.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to allocate adequate and sufficient funds to implement the provisions of the Right of Children to Free and Compulsory Education Act 2009 and Rules framed thereunder and to provide learning equipments to students admitted under the said Act, enabling student to continue their uninterrupted study, consequently to conduct detailed enquiry and initiate necessary actions against the schools violating the provisions of the said Act, and demanding money from parents in the guise of purchasing books, uniforms and other essential things in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani
For Respondent No.1 : Mr.R.Arjunarajan
For Respondent No.2 : Mrs.V.Srimathi
Special Government Pleader

O R D E R

[Order of the Court was made by Ms.Indira Banerjee, Chief Justice]

This Writ Petition is directed against the alleged denial of fundamental right of all children to education under Article 21-A of the Constitution of India. In pursuance of Article 21-A of the Constitution of India, the Parliament has enacted the Right of



Children to Free and Compulsory Education Act 2009, [hereinafter referred to as "*the RTE Act*"]. Under Section 3(1) of the RTE Act, every child between the age of 6 and 14 years has a right to free and compulsory education in a neighbourhood school. Section 3(2) of the RTE Act makes it amply clear that no child shall be liable to pay any kind of fee or charges or expenses which may prevent the child from pursuing and completing elementary education.

2. Considering the constraints of infrastructure, amendments have been made in the 2009 Act and the Rules framed thereunder, which require even unaided private schools to admit underprivileged children free of charge. Of course, such schools might claim reimbursement from the appropriate Government for the expenses incurred on the education of such underprivileged children.

3. It is the case of the petitioner that as per the newspaper reports, thousands of applications for admission to schools under the RTE Act are pending. Many of the applications are processed and considered only against illegal consideration and gratification, which could even be Rs.10,000/- per child, as reported in the Edition of the New Indian Express, published on Wednesday, 30th May 2018 and other news reports in the Hindu and other newspapers.

4. The respondents shall ensure that no child is denied education and an enquiry should be conducted into the allegations of wrongful charging capitation fees, fees and other charges from students. Needless to mention that if the allegations are substantiated upon such enquiry, the respondent authorities will take appropriate action against such schools in accordance with law, including cancellation of recognition, after giving the school an opportunity of hearing. So far as the allocation of funds is concerned, it is within the arena of the Government. However, it is reiterated that no student shall be denied education and the Government shall take necessary steps to ensure that no child between 6 and 14 years is denied education.

5. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-III)



To

1. The Secretary,
Union of India,
Ministry of Human Resource and Development Department,
Shastri Bhawan, New Delhi 110 001.

2. The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Chennai.

+1cc to Mr.S.Malaikani, Advocate Sr.No.74634
+1cc to Mr.R.Arjunarajan, Advocate Sr.No.74583
+1cc to Spl.Government Pleader Sr.No.74845

NB

VB/KAK/SAR3/13.08.2018/3P/6C

ORDER MADE IN
W.P. [MD] .No.16139 of 2018
and
W.M.P (MD) .No.14372 of 2018
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