

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.11059 of 2010
and M.P.No.2, 3 and 4 of 2010

- 1.A.Nirmala
- 2.N.Amutha
- 3.S.Parameshwari
- 4.M.Adilakshmi
- 5.K.Kanchana
- 6.N.S.Geetha
- 7.V.Poonguzhali
- 8.A.Bharathi
- 9.J.G.Ragunathan
- 10.N.Sivakumar
- 11.S.Vasuki
- 12.Nirmala Devi
- 13.C.Revathi
- 14.E.Prema

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
rep. By its Secretary to Government,
Education Department (Elementary),
Secretariat, Chennai 600 009.
- 2.The Joint Director of Elementary Education,
(Aided Schools),
College Road,
Chennai 6.
- 3.The District Collector,
Kanchipuram District.
- 4.The Chief Educational Officer,
Kancheepuram.
- 5.The District Elementary Educational Officer,
Kancheepuram.

6.The Additional Assistant Elementary Educational Officer,
Kancheepuram.

7.Sri Krishna Middle School,
Rep. By its Correspondent, Mr.Rajagopal,
92-92 A, South Mada Street,
Little Kancheepuram,
Kancheepuram.

8.The Headmistress (Incharge)
Sri Krishna Middle School,
92-92 A, South Mada Street,
Little Kancheepuram,
Kancheepuram.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, praying for issuance of a writ of
Mandamus directing the respondents 1 to 6

(a) to take over the 7th respondent school by the 1st
respondent and protect the employment of the petitioners by way
of transferring them to the nearby appropriate government
schools.

(b) to take appropriate actions on the correspondent of the
7th respondent for committing sexual harassment against the lady
teachers and against 8th respondent for abetting the commission
of offense by the 7th respondent notwithstanding of the criminal
case.

(c) to provide infrastructure and all amenities in the
interest of education of the children and safeguards by
complying the conditions laid down by the Justice Sampath
Committee report.

For Petitioners : Mr.S.N.Ravichandran

For RR1 to 6 : Mr.P.Raja,
Government Advocate

For R7 & R8 : Mr.M.Sriram

O R D E R

The petitioners are all teachers working in 7th respondent
School. The petitioners have made a complaint against one
Rajagopal who is the Correspondent of the 7th respondent School,
alleging sexual harassment and other allegations. They have also
made allegations against Mrs.Sudha, daughter of Rajagopal, 8th
respondent herein who is the Head Mistress (In-Charge) of the 7th

respondent School. On the various allegations made in the affidavit filed in support of the Writ Petition, they have prayed for a direction to the respondents 1 to 6 to take over 7th respondent School by the 1st respondent and protect employment of the petitioners by way of transferring them to the nearby appropriate Government School and also prayed for providing infrastructure and all amenities in the interest of education of the children and safeguard by complying the conditions laid down by Justice Sampath Committee report.

2.The 5th respondent filed counter affidavit on 6th August, 2019, on his behalf and on behalf of the respondents 1, 2, 4 and 6. From the counter affidavit it is seen that on inspection certain defects were found. The 7th respondent has not produced Building Stability certificate issued by the certified Engineer approved by the District Collector, the Sanitation Certificate issued by the Municipal/Local Body Authorities and Fire Certificate issued by the Competent Fire Officer. The 5th respondent has stated that the infrastructure facilities like proper building, toilet facilities and water facilities were found insufficient and it was found that the students were dumped in class rooms without space for them. The 7th respondent has not maintained proper play ground in the school and further stated that the school is run in a congested manner. The 7th respondent has not taken any steps to construct class rooms and also to provide adequate toilet, drinking facilities, sanitation and fire safety equipments. If 7th respondent failed to produce the certificates mentioned above, the recognition granted to the 7th respondent can be withdrawn and School can be closed, transferring the students to nearby Schools and Teachers to vacant places in other aided School. The learned Government Advocate produced the instruction dated 29.07.2019 bearing Na.Ka.No.3430/A2/2018 given to him by the 5th respondent, wherein it is stated that out of 14 petitioners, the petitioners 3, 4, 6 and 7 and one Shanthi are alone working as Secondary Grade Teachers and students can be transferred in the event of closure of the School and sought for a direction to the 1st respondent for redeployment of the petitioners to other Schools and transferring the students to four Schools mentioned in the counter affidavit.

2(i). The learned counsel appearing for the 7th and 8th respondents contended that due to false allegations of the petitioners, the students strength has been reduced and some of the petitioners were transferred to other Schools due to reduction of students strength. The 7th respondent has rectified the defects pointed out by the 5th respondent and provided all the facilities to the students. There is no impediment for the 7th respondent to run the School. There is no reason for the 5th respondent to withdraw the recognition granted to the 7th respondent. If 5th respondent deploys other petitioners also, the

5th respondent may be directed to appoint sufficient Teachers so that the interest of the students will not be affected. For the defects now pointed out by the 5th respondent in the counter affidavit dated 6th August 2019, no notice was given to the 7th respondent and prayed for dismissal of the Writ Petition.

3. Heard the learned counsel appearing for the petitioners, learned Government Advocate appearing for the respondents 1 to 6 as well as the learned counsel appearing for the respondents 7 and 8 and perused the materials available on record.

4. From the averments in the affidavit, it is seen that the petitioners have made various allegations against the respondents 7 and 8 and sought for an action being taken against the 7th respondent and transfer the petitioners to nearby appropriate Government School. The 5th respondent by the proceedings dated 29.07.2019, given the instructions to the Government Advocate and counter affidavit dated 6th August, 2019 was filed stating that eight Secondary Grade Teachers and one B.T Assistant were already transferred to other School due to reduction of students' strength and consequent reduction of staff strength. The 5th respondent has also stated that the 7th respondent has not provided necessary infrastructure and safety measure for the welfare of the students. The learned counsel appearing for the 7th respondent has stated that all the defects were rectified and for the defects pointed out by the 5th respondent, no notice was given to the 7th respondent. In view of the said contention, the 5th respondent is directed to inspect the 7th respondent School and if 7th respondent has not provided necessary infrastructure for the students like class room, toilet, other sanitary and fire safety measures, it is open to the 5th respondent to take proceedings against the 7th respondent for withdrawal of recognition and also closure of School after following the procedures. It is needless to say that if 5th respondent comes to the conclusion that recognition granted to the 7th respondent has to be withdrawn and to be closed, the 5th respondent is at liberty to re-deploy the petitioners to other Schools as stated in the counter affidavit and in the proceedings dated 29.07.2019 and also transfer the students to the nearby School. The 7th respondent at the time of redeployment of the petitioners is directed to return all the original certificates of the petitioners. As far as the relief of taking appropriate action on the 7th respondent is concerned, already a criminal proceeding is initiated and the same is pending. Today Criminal Original Petition filed by the 8th respondent to quash the criminal proceedings initiated against her (8th respondent) is pending. The petitioners are not entitled to said relief in the Writ Petition.

5. With the above direction, this Writ Petition is disposed of, directing the 5th respondent to take steps within a period of

four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

- 1.The Secretary,
State of Tamil Nadu,
Education Department (Elementary),
Secretariat, Chennai 600 009.
- 2.The Joint Director of Elementary Education,
(Aided Schools),
College Road,
Chennai 6.
- 3.The District Collector,
Kanchipuram District.
- 4.The Chief Educational Officer,
Kancheepuram.
- 5.The District Elementary Educational Officer,
Kancheepuram.
- 6.The Additional Assistant Elementary Educational Officer,
Kancheepuram.

+1cc to Mr.S.N.Ravichandran, Advocate SR.73206
+1cc to Mr.M.Sriram, Advocate SR.73138
+1cc to the Government Pleader SR.74087

W.P.No.11059 of 2010

KS (CO)
CB(18/10/2019)

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