

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.8931 of 2008

A.B.M.Primary School,
represented by its
Correspondent and Headmistress G.Nayome
No.84, Dr Ambedkar College Road,
Pattalam,
Chennai 600 012.

...Petitioner

Versus

1. The District Primary Education Officer,
College Road,
Chennai 600 006.
2. The Assistant Primary Education Officer,
Periamet Range,
Chennai 600 001.
3. C.H.Sundar Singh,
Property custodian & Entrustee
American Baptist Foreign Mission Society,
A.B.M.Primary School and Emmanuel
Telugu Baptist Church,
No.179/84 Dr Ambedkar College Road,
Chennai 600 012.

...Respondents

R3 impleaded as per court order
dated 29.09.2008 in M.P.No.2 of
2008 in W.P.No.8931 of 2008)

PRAYER: Writ petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of Certiorari
to call for the records comprised in Na.Ka.No.286/A1/2006 dated
24.03.2008 on the file of the first respondent, quash the same.

For Petitioner : Mr.R.Bharanidharan

For Respondents : Mr.A.Rajaperumal for RR1 & 2
Additional Government Pleader

Mr.K.M.Ramesh for R3

O R D E R

This writ petition has been filed seeking to quash the
proceedings passed by the first respondent in
Na.Ka.No.286/A1/2006 dated 24.03.2008.

2.The petitioner school is coming under the control of the Samavesam of Telugu Baptist Churches having its head office at Nellore at Andhra Pradesh. The properties held by the Telugu Baptist Churches were all given by the American Baptist Churches, which was given away to the property Association of Baptist Churches. The petitioner school was started by the American Baptist Mission and named as American Baptist Mission School, which has been later given to the administration of the Samavesam of Telugu Baptist Churches. The petitioner school is a non-minority aided school running primary classes from 1st standard to 5th standard with a strength of 120 students in Telugu medium. The petitioner school is administered by the committee elected in the Madras City and Field Association of Telugu Baptist Churches. From the time immemorial, the senior most teacher viz., the Headmistress was appointed as the Correspondent of the school. Therefore, one M.Deva Anugraham was appointed as Headmistress cum Correspondent of the petitioner school and was retired in the same post on 31.05.2007. In the meantime, one Immanuel Telugu Baptist Church, which were permitted to have a church for worshipping in the very same premises, where the school was functioning was interfering with the peaceful possession and functioning of the school and also obstructing the path way to the school premises. Hence, the Immanuel Telugu Baptist Church filed a suit in O.S.No.710 of 2000 before the V Assistant Judge, City Civil Court, Chennai seeking for a decree of permanent injunction restraining the petitioner school from interfering with their right to use the pathway to the church building through the school. The said suit was dismissed on 12.04.2004. Aggrieved over the dismissal order, the members of the Immanuel Telugu Baptist Church were creating disturbance to the petitioner school. Thereafter, the erstwhile Correspondent cum Headmistress M.Deva Anugraham, retired from service and on a meeting by the School Committee on 31.05.2007, a resolution was passed and appointed one Tmt.G.Nayome as Correspondent cum Headmistress to the petitioner school. The school committee has also forwarded the communication for approval by the first respondent and the same was forwarded to second respondent vide its proceedings dated 30.07.2007. Thereafter the first respondent by its proceedings in Na.Ka.No.286/A1/2006 dated 13.09.2007 approved the appointment of Tmt.G.Nayome as Correspondent cum Headmistress in the place of the M.Deva Anugraham with effect from 01.06.2007 and she continued to be the correspondent and headmistress. While so, all of a sudden, the first respondent has issued a impugned order dated 24.03.2008, canceling the previous order approving Tmt.G.Nayome to be the Correspondent cum Headmistress and that order is under challenge before this Court.

3.Heard Mr.R.Bharanidharan, learned counsel appearing for the petitioner, Mr.A.Raja Perumal, learned Additional Government Pleader, appearing for the respondents 1 and 2 and Mr.K.M.Ramesh, learned counsel appearing for the 3rd respondent.

4.The learned counsel for the petitioner would submit that the reason stated in the impugned order for canceling the approval of appointing Tmt.G.Nayome, in the post of Correspondent is that one C.H.Sundar Singh had raised objections that he is also a correspondent. The impugned order further stated that there was no properly elected Secretary for the School Committee and therefore the approval for the post of Correspondent to Tmt.G.Nayome was withdrawn and ordered direct aid from the department. He further submitted that without giving any notice, the cancellation of the approval of the post of Correspondent cum Headmistress has been made. The learned counsel further submitted that if at all the 3rd respondent is affected and has any grievance, he can very well approach the appropriate forum i.e. The Director of Elementary Education and work out his remedy.

5.The learned Additional Government Pleader did not dispute the facts submitted by the learned counsel for the petitioner.

6.The learned counsel for the 3rd respondent acceded to the submission made by the learned counsel for the petitioner.

7.In view of the above submissions, without going into the merits of this case, this court is inclined to direct the 3rd respondent to file an appropriate petition before the competent authority. On receipt of the same, the competent authority shall consider and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of the petition after giving due opportunity to all the parties concerned.

8.The writ petition is disposed of on the above terms. The interim stay granted by this Court on 11.04.2008 shall continue till the disposal of the case before the competent authority. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

1.The District Primary Education Officer,
College Road,
Chennai 600 006.

2.The Assistant Primary Education Officer,
Periamet Range,
Chennai-1

+1 CC to Mr.R.Karthikeyan, Advocate sr 69212.

+1 CC to Mr.K.M.Ramesh, Advocate sr 69233.

+1 CC to The Govt. Pleader sr 69733.

W.P. No.8931 of 2008

EV(CO)
SP(04/11/2019)



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