

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 38973 of 2004
W.P.M.P.No.11788 of 2005

M.K.M.Aboobakar, B.Sc.,
Educational Agency,
Aided Elementary School,
Thirukalacherry,
Nagapattinam District. Petitioner

Vs

1. Government of Tamilnadu, represented
by Secretary, School Education
Department, Fort St. George
Chennai 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 6. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in G.O.Ms.No.136 School Education Department dated 20.10.2004 on the file of the first Respondent herein and quash the same and direct the respondents herein to declare the minority status of the Aided Elementary School, Thirukalacherry, Nagapattinam District to be run and administered under the name and style of Annai Aisha Aided Elementary School, Thirukalacherry in order to identify the school as a Muslim minority school.

For Petitioner : Mr.S.Sadasharam

For Respondents : Mr. A.Rajaperumal,AGP.

O R D E R

The Government order passed in G.O.Ms.No.136 School Education Department dated 20.10.2004, rejecting the representations submitted by the writ petitioner, which is an Educational Agency is under challenge in the present writ petition.

2. The core contention of the learned counsel appearing on behalf of the writ petitioner is that the writ petitioner educational agency is a minority institution and therefore, a declaration to that effect is to be issued in the present writ petition.

3. However, the writ petition is filed in the name of Mr.K.M.Aboobakar, designated as an educational agency. This Court is of an opinion that such a declaration to declare an institution as a minority institution cannot be adjudicated in a writ Jurisdiction under Article 226 of the Constitution of India in view of the fact that to establish the fact, regarding the minority, the institution has to produce all original documents and adducing the evidences before the competent forum along with the materials available. Such an exercise cannot be done in a Writ Jurisdiction. An elaborate adjudication of the status of the institution is to be considered by the competent authorities before granting any such declaration for the purpose of availing the benefits under the provisions of the constitution and other statutes.

4. In this regard, the petitioner has to approach the Committee constituted for this purpose by the Government. In the event of filing any such application before the competent forum, such a forum is entitled to adjudicate the same in the manner known to law and by providing opportunity to all the parties concerned and take a decision in accordance with law.

5. This being the principles to be followed, the exercise of scrutiny of original documents and adducing of evidences cannot be done in a writ petition and therefore, the writ petitioner is at liberty to approach the competent forum for the purpose of redressing his grievances.

6. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kak/kmm

To

1.The Secretary,
School Education
Department, Fort St. George
Chennai 600 009.

2. The Director of Elementary Education,
College Road, Chennai - 6.

+1 cc to Mr.S.Sadasharam, Advocate Sr.No.1674

+1 cc to The Government Pleader, Sr.No.1894

W.P.No. 38973 of 2004

VGI(CO)
CSL/31.01.2019



WEB COPY