



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 16.07.2019	Pronounced on: 19.07.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.5866 of 2019
& W.M.P.No.6705 & 10577 of 2019

1. G.Ragunathan,
S/o.Govindasamy.

2. G.Ramesh,
S/o.Govindasamy.

3. Ammayee,
W/o.Govindasamy.

4. T.Kuppammal,
W/o.Munusamy.

5. M.Kullammal,
W/o.Munusamy.

6. M.Poongol,
W/o.Muthusamy.

7. R.Suryagandhi,
W/o.Ramakrishnan.

8. M.Ramajayam,
S/o.Muthusamy.

9. R.Jeevitha,
W/o.Ramesh.

10. Sumathy,
W/o.Srinivasan.

11. G.Shiyamala,
W/o.Narayanasamy.

All residing at Sepettai,
Gingee, Villupuram District.

/versus/

... Petitioners

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The District Educational Officer,
Gingee,
Villupuram District.
3. The Block Educational Officer - I,
Gingee,
Villupuram District.
4. Aided Elementary School,
Represented by its Correspondent,
Sepettai, Gingee,
Villupuram District.
5. Latchana Devi,
Correspondent,
Sepettai, Gingee,
Villupuram District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in Na.Ka.No.581/A1/18, dated 22.02.2019, quash the same and consequently direct the respondents to extend the approval granted to the school committee of the fourth respondent school vide the proceedings of the 2nd respondent in Mu.Nu.No.2492/A4/2011 dated 24.06.2011 and thereafter grant approval to the duly appointed Correspondent by the School Committee.

For Petitioner : Mr.N.R.Chandran, Senior Counsel
for Dakshayani Reddy.

For R1 to R3 : Mrs.V.Annalakshmi,
Government Advocate

For R4 & R5 : Mr.Godson Swaminath,
for M/s.Issac Chambers

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The Petitioners, eleven in numbers are legal heirs of Govindasamy. The said Govindasamy was administering a Primary School at Sepettai, Gingee, Villupuram District. During his lifetime, the Management of the School was transferred in the name of his son G.Kumar and proceedings were issued to the said effect by the District Elementary Educational Officer on 04.08.1985. On the death of G.Kumar, it appears the School Committee has passed a resolution on 17.06.2016 nominating Latchana Devi, widow of G.Kumar as the Secretary and same has been intimated to the authorities along with the consent of the other legal heirs. Based on the said representation forwarded to the Authorities, the District Elementary Educational Officer has issued order under the proceedings dated 26.12.2016 recognizing Latchana Devi as the Secretary of the said School.

3. It is now contended by the Learned Counsel for the petitioners particularly the 1st petitioner who is the another son of Govindasamy, that the property on which the School run in the name of his father. After his demise it had devolved upon all his legal heirs. Therefore, the Educational Agency of the said school vest with all the legal heirs of Govindasamy.

4. By cohesion Ammayee the widow of Govindasamy, was forced to give consent to the 5th respondent/Latchana Devi. She fabricated resolution of the School Committee dated 19.10.2016. In the said fabricated resolution, Latchana Devi was appointed as the Correspondent of the School. In the said circumstances, the representation was given to the respondents to take action against the 5th respondent/Latchana Devi, since there was no response from the Authorities. Ammayee/3rd petitioner has filed W.P.No.34279 of 2017, before this Court. Pending Writ Petition, the 2nd respondent issued show cause notice dated 07.08.2018. Taking note of the action initiated by the 2nd respondent/the District Educational Officer, vide show cause notice dated 07.08.2018, the W.P.No.34279 of 2017 was closed, with the direction to the 2nd respondent/the District Educational Officer, to conduct enquiry for the appointment of the 5th respondent/Latchana Devi as the Secretary of the said school and pass suitable orders. In the enquiry, the petitioners have participated and produced documents to substantiate the so called resolution of the School Committee was fabricated document and it is not a valid resolution. Despite their objections, the 2nd respondent/the District Educational Officer, has passed a proceedings in Na.Ka.581/A1/18, dated 22.02.2019, recognized 5th respondent as the Secretary of School, referring the resolutions of the School Committee, dated 17.09.2016 and 19.09.2016. When the genuineness of the School Committee itself is being fabricated document, without ascertaining its

genuineness, the 2nd respondent ought not to have recognised the 5th respondent as the Correspondent of the said School.

5. The District Educational Officer who is the 2nd respondent herein has filed counter, wherein, it is stated that the Aided Elementary School at Sepettai Village, Gingee Taluk, Villupuram District is a Non-Minority School governed by the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. Thiru.G.Kumar son of Govindasamy was administering the School in the capacity of its Correspondent, till his death on 16.09.2016. The Educational Agency has to nominate one of its representative as the Secretary of the School Committee, as per the Rules 13(1) of the Tamil Nadu Private Schools (Regulation) Act, 1974. When complaint against the 5th respondent/Latchana Devi received by the 2nd and 3rd respondents, alleging the signatures found in the affidavit of Ammayee/3rd petitioner, were forged and fabricated, enquiry was conducted. The 3rd petitioner/Ammayee in his affidavit dated 18.10.2016, stating that she will never claim right in future in the administration of the School and would not file any case in the Court was considered. In the course of enquiry, the signature of the 3rd petitioner/Ammayee was compared and no difference could be made out. Therefore, the 2nd respondent/the District Educational Officer, has held that the complaint made by the petitioners are false. Hence, the order dated 22.02.2019 was issued permitting Latchana Devi to continue as the Secretary of the School. The School Committee have no authority over the appointment of Manager/Correspondent. Therefore, the contention of the petitioners that the School committee is vested with the powers to appoint Manager/Correspondent is baseless allegation.

6. The 5th respondent/Latchnadevi, in her counter affidavit, wherein, she has stated that the School was established in the year 1947 and recognized as Elementary Aided Private School. In the year 1965, the School was gifted to Mr.Govindasamy by the establisher. Later due to his ill-health, Mr.Govindasamy transferred the administration of the School to his elder son Mr.G.Kumar. The transfer of Management was permitted by the District Educational Officer, vide his order in Pa.Mu.No.8595A2/94, dated 04.08.1995 and Management was transferred vide order dated 25.08.1995, passed by the Assistant Elementary Education Officer. After the demise of Mr.G.Kumar on 16.09.2016 being his widow, the 5th respondent/Latchana Devi has taken up the administration of the School. At the instance of the 1st respondent/G.Ragunathan, School Committee meeting was convened and the resolution was signed by the members. The signatures were obtained only by Ragunathan and he only took the signature of the 5th respondent/Latchana Devi. When 5th respondent/ Latchana Devi, signed the resolution, she found the signature of others in the minutes. When the 1st

respondent/Ragunathan, wanted to appoint non-teaching staff, as Secretary, it was not accepted by the 5th respondent/Latchana Devi. The 3rd Petitioner/Ammayee relinquished her right through an affidavit. It was prepared by the 1st petitioner/Ragunathan. The 5th respondent/Latchana Devi, did not forged any signature and the said allegation is denied as false. The Official respondents 1 to 4 has accepted her, as the Secretary of the School. She continue to be the Secretary, in view of the interim order passed by this Court. The payment to the staff members are made directly.

7. The Learned Counsel appearing gfor the 5th respondent would submit that as per the Tamil Nadu Private Schools (Regulation) Act, 1973, and Rules framed thereunder:- the Secretary has to be appointed by the Educational Agency. In this Case, the 5th respondent/Latchana Devi is the Educational Agency. After the demise of her husband G.Kumar, she being the Headmistress of the School and Education Agency, she has been nominated as the Secretary. As per the Rule 13 of the Tamil Nadu Private Schools (Regulation) Act, 1974. The Secretary of School Committee shall be nominated by the Educational Agency and it is open to the Educational Agency, to nominate Headmaster as Secretary.

8. Further he submit that, as far as the nomination of Secretary of the School is concerned, the School committee has no role, only the Educational Agency has to nominate the Secretary. Therefore, the contention of the petitioners that, she 5th respondent was nominated as Secretary of the School based on School Committee resolution itself is not correct. Furthermore, the signatures found in the School Committee resolution are forged and fabricated is untrue. The 5th respondent/Latchana Devi is open for any enquiry by any Agency, to testify the genuineness of the signatures found in the School Committee resolution.

9. Heard the learned Counsels and perused the records.

10. Till his lifetime, G.Kumar was the Secretary of the concern School. On his death, the School Committee meeting convened and the 5th respondent was appointed as Secretary. Ammayee/3rd respondent one of the legal heir of Mr.G.Kumar has given an affidavit dated 18.10.2016 along with minor children of the 5th respondent/Latchana Devi, in which the 3rd petitioner/Ammayee has expressed her consent for change of patta in the name of 5th respondent/Latchana Devi, transfer of School Management in the name of 5th respondent and also promised not to take any Civil action against her, in respect of death benefits and pension benefits of G.Kumar. The said resolution of the School Committee dated 19.09.2016 and the affidavit are now

disputed by Ammayee/3rd petitioner.

11. Under the Tamil Nadu Recognized Private Schools (Regulation) Act, 1974, any Education Institute should be run by an Educational Agency and the said Educational Agency should nominate the Secretary.

12. Section 2(3)(b) of the Tamil Nadu Private Schools (Regulation) Act, 1973, defines "Education Agency":-

(3) "Educational agency" in relation to:-

(a).....

(b) any other private school, means any person or body of persons or a company or corporation owned or controlled by the central or state government permitted or deemed to be permitted under this Act to establish and maintain such other private school;

13. Section 13 of the Tamil Nadu Recognized Private Schools (Regulation) Rules 1974, speaks about the nomination of Secretary.

13. Secretary or the School Committee. (1). The Educational Agency shall nominate one of its representatives as Secretary of the School Committee.

Provided that, it shall be open to the Educational Agency, to nominate the Headmaster as Secretary.

14. Sections 16 & 18 of the Tamil Nadu Recognized Private Schools (Regulation) Act 1973, prescribes the functions and responsibility of the School Committee and Educational Agency.

16. (1) Every school committee shall have a secretary who shall exercise such powers and perform such functions as may be prescribed.

(2) Every person holding office as President, Secretary, Manager or Correspondent of private school or exercising the powers of secretary under this Act on the date of the commencement of this Act shall be deemed to be a secretary under this Act.

18. Functions of the school committee and responsibility of educational agency under the Act:-

(1) Subject to the provisions of this act and the rules made thereunder the school committee shall have the following functions, namely:-

(a) to carry on the general administration of the private school excluding the properties and funds of the private school.

(b) To appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their service; which shall not contravene any of the provisions made in the Rules or directions issued under this Act, and

(c) to take disciplinary action against teachers and other employees of the private school following the prescribed procedure.

(2) The educational agency shall be bound by anything done by the school committee in the discharge of the functions of that committee under this Act.

(3) For the purposes of this Act, any decision or action taken by the school committee in respect of any matter over which the school committee has jurisdiction shall be deemed to be the decision or action taken by the educational agency.

(4) The Secretary of the school committee shall send a quarterly Return showing the decisions taken at the meetings of the school committee held during the Quarter under report and enclose it to that monthly staff grant Statement ending with that quarter.

15. From these legal provisions, it is clear that, the School Committee is the Deciding Authority and Education Agency shall be bound by the decision of the School Committee.

16. In this case, the School Committee vide its resolution dated 19.09.2016 has appointed 5th respondent/Latchana

Devi as the Secretary of the School Committee. Based on the resolution and the affidavit of the 3rd petitioner/Ammayee, the 5th respondent/Latchana Devi, has been recognized as the Secretary of the School. When the genuineness of the resolution and the affidavit being questioned and taken up for consideration by the 2nd respondent/District Educational Officer, he has held the affidavit and resolution as genuine in spite of objections by the concern persons who supposed to have signed it. The impugned order of the 2nd respondent, without properly adjudicating the issue before him as arrived at a conclusion, holding the genuineness of the disputed signature by comparing it with naked eye. It is a clear case of dispute between the family members of Mr.G.Kumar, regarding the ownership and Management of the Aided Elementary School. Who is the Education Agency and whether the 5th respondent was duly nominated as Secretary of the School Committee is under dispute. In such circumstances, any parties interest in the administration of the School or the Authority themselves, ought to have referred the matter to the Civil Court, as per Section 53-A of the Tamil Nadu Recognized Private Schools (Regulation) Act, which reads as below:

53-A. (1) Notwithstanding anything contained in section 53, whenever any dispute as to the constitution of any educational agency, or as to whether any person or body of persons, is an educational agency, or as to whether agency, in relation to any private school, or as the appointment of secretary of the school committee, arises such dispute may be referred by the persons interested or by the competent authority to the civil court having jurisdiction, for its decision.

(2) Pending the decision of the civil court on a dispute referred to it under sub-section (1), or the making of an interim arrangement by the civil court for the running of the private school, the Government may nominate an officer to discharge the functions of the educational agency, the school committee or the secretary, as the case may be, in relation to the private school concerned.

17. Considering the nature of the dispute between the petitioners and the 5th respondent/Latchana Devi, it is appropriate to direct the 2nd respondent/District Educational Officer, to refer the matter to the Civil Court under Section 53-A of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, to decide upon the Education Agency and the

Secretary, based on the come out. Till then, the 2nd respondent is directed to make interim arrangement as prescribed under Section 53-A (2) of the Act.

18. Accordingly, the impugned order passed by the 2nd respondent in Na.Ka.No.581/A1/18, dated 22.02.2019 is quashed. With the above direction, the Writ Petition is disposed of. No costs. Consequently, Connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

bsm

To,

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The District Educational Officer,
Gingee,
Villupuram District.
3. The Block Educational Officer - I,
Gingee,
Villupuram District.

+1 CC to Govt. Pleader sr 62408.

+1 CC to M/s. Isaac Chambers, sr 62630.

+1 CC to M/s. Dakshayani Reddy, Advocate sr 62026.

Writ Petition No.5866 of 2019
& W.M.P.Nos.6705 & 10577 of 2019

RP(CO)
SP(30/07/2019)

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