

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.10996 of 2019
and W.M.P.Nos.11426,11429 &14382 of 2019

A.Angalaparameswari

... Petitioner

Versus

- 1.The Union of India,
Rep.by the Chief Secretary,
Government of Puducherry,
Chief Secretariat, Pondicherry.
- 2.The Secretary to Government,
Education Department,
Government of Puducherry,
Chief Secretariat, Pondicherry.
- 3.The Director of Education,
Education Department,
Pondicherry-5
- 4.The Chief Educational Officer,
Education Department,
Pondicherry-5
- 5.The Deputy Director (Elementary Education),
Directorate of School Education,
Education Department, Pondicherry.

6.E.Pushpalatha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorari to call for the records pertaining to the impugned orders passed by the 5th respondent vide No.1261/DSE/EE/P-10/N-10/2018-19, dated 25.03.2019 and the consequential order passed by the 4th respondent vide Endt.No.1792/CEO/Stores/S1/2018-19, dated 25.03.2019, signed on 26.03.2019 and quash the same and further direct the respondents to sanction recognition for the

petitioner school by considering the proposal submitted by the petitioner.

For Petitioner : Mrs.Hema Sampath, Senior counsel
for V.Sivalingam
For R1 to R5 : Mr.Stalin Abhimanu, GA
For R6 : Mr.J.Srinivasa Mohan

O R D E R

The petitioner herein who is the Head Mistress of Divine High School, has filed the present writ petition challenging the order passed by the fifth respondent herein and the consequential order passed by the fourth respondent. The impugned order of the fifth respondent indicates that pursuant to the objections raised by one Pushpalatha, daughter of late Elumalai, the authorities have come to a conclusion that the Divine English High School does not have a valid lease agreement of the land on which the School is conducted and therefore the School has to be closed down by the end of the academic year 2018-2019

2. Due to the dispute between the School Management namely Angalaparameshwari, the writ petitioner herein and E.Pushpalatha/6th respondent, the order of close down has been passed. In the counter filed by the sixth respondent, the maintainability of the writ petition is raised besides other grounds. She supports the impugned order. The institute as such has no recognition granted by the competent authority. So the request for renewal of recognition not entertained due to non submission of the valid lease deed. This has lead to passing closure order.

3. In the impugned order, it is stated that the writ petitioner should close down the School. It has to issue transfer certificate to the existing students and hand over the School records to the Director or its nominee as per Rule 13 of the Pondicherry School Education 1996.

4. The sixth respondent has filed a vacate petition as well as counter raising preliminary objections regarding the maintainability of writ. Pointing the legal provisions available under the statute and the doubt regarding the very competency of the writ petitioner herein, to run the School by name Divine English High School, which was initially started by her father Elumalai after constituting a trust by name Janarthanan Memorial Educational Society.

5. In response to the above submissions, the learned senior counsel would submit that there is no appellate authority

functioning at present and the alternate appeal remedy may not be efficacious and speedy, in view of the impugned order which has directed the petitioner to close down the School and give transfer certificates to all the existing students. Further, it is also brought to the notice of this Court that there is no incumbent to head the Tribunal and hear appeal.

6. The learned senior counsel seriously objected the impugned order on the ground that neither the fourth respondent nor the fifth respondent has any authority to close the School. At the most they can only take over the Management.

7. On hearing the rival submissions, this Court is of the opinion that Elumalai who has established the School by name Divine English High School, has obtained recognition from the competent authority. The School was functioning without any difficulty till his demise and thereafter due to the dispute between the family members of Elumalai, the School is functioning without due recognition since 2016.

8. In the said circumstances, the fourth respondent thought fit to direct the petitioner herein to close down the School. However, the reasons given in the order has to be duly tested by the appellate authority and if there is no appellate authority functioning as on date, the second respondent herein is bound to constitute the appellate Authority forthwith and entertain the appeal of the writ petitioner herein under Section 36 of the Pondicherry School Education Act, 1987, which envisages any person aggrieved by the order, decision or direction, the appropriate authority has right to prefer an appeal. Hence, the writ petition is disposed of with the following directions:-

The writ petitioner herein shall prefer the appeal before the Appellate Authority constituted under Section 36 of the Act within 15 days. The sixth respondent herein is at liberty to make her objections. The Appellate Authority after providing opportunity of due hearing, shall dispose of the appeal within a period of two months. Till then status quo is to be maintained. No costs. Consequently, the connected miscellaneous petitions are also closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

rpl

To

1.The Chief Secretary,
Union of India,
Government of Puducherry,
Chief Secretariat, Pondicherry.

2.The Secretary to Government,
Education Department,
Government of Puducherry,
Chief Secretariat, Pondicherry.

3.The Director of Education,
Education Department,
Pondicherry.5

4.The Chief Educational Officer,
Education Department,
Pondicherry-5

5.The Deputy Director (Elementary Education),
Directorate of School Education,
Education Department,
Pondicherry.

+1 CC to Mr.T.V.J. Associates sr 20460.

+1 CC to The Govt. Pleader sr 49881.

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सत्यमेव जयते

GP (CO)
SP (22/07/2019)

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