

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2019

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.13938 of 2019

Abel Samuel Wilson

...Petitioner

Vs.

1.The Joint Director of Elementary Education
(Aided School)
College Road, Chennai 600 008

2.The Chief Educational Officer
Namakkal District, Namakkal

3.The District Elementary Educational Officer
Namakkal District
Namakkal

4.The Assistant Elementary Educational Officer
Sendamangalam Panchayat Union
Sendamangalam, Namakkal District

5.The Church Committee
represented by its Pastor
S.B.M.School Compound
Senthamangalam, Namakkal District

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondent 1 to 4 to approve the petitioner as Educational Agency for SBM Middle School, Sendamangalam, Namakkal District and entrust

property including the building and other infrastructure.

For Petitioner : Mr.DJ.Adinarayanan

For Respondents : Mrs.V.Annalakshmi
Government Advocate

ORDER

By consent the Writ Petition itself is taken up for final disposal.

2.The petitioner has filed this Writ Petition seeking issuance of Writ of Mandamus, directing directing the respondent 1 to 4 to approve the petitioner as Educational Agency for SBM Middle School, Sendamangalam, Namakkal District and entrust property including the building and other infrastructure.

3.The learned counsel for the petitioner would submit that the SBM Middle school, Sendamangalam, Namakkal District is a private aided middle school, receiving teaching grant from the Government of Tamilnadu. The above school was established by the European Mission called Strict Baptist Mission Trust headed by one European Mr.Hacket. The above Trust had purchased lands in South India with a view to provide education to the children in South India with a view to

independence. The said Trust had established schools in the Salem District at Pottireddypatti, Sanarpalayam, Vadakarayathur, Kolli Malai, Sendamangalam to provide primary education.

4. After the return of the European nationals to their countries after the independence, the schools established were transferred to the concerned Head masters with the right of Management and with the post of Correspondent. The petitioner's aunt, namely Selvi Eben Samuel was working as a teacher in the said school at Sendamangalam from the year 1927 and then she was promoted as Headmistress in the year 1967 and she was managing the said school. The said transfer of management was effected through a certificate dated 26.03.1974 and the petitioner's aunt, namely Selvi Eben Samuel was recognised as Correspondent / Secretary of the SBM Middle school, Sendamangalam. Thereafter, there was a dispute between the 5th respondent and the petitioner, hence, the petitioner filed a suit in O.S.No.974 of 1992 for permanent injunction and declaration against the 5th respondent. The said suit was dismissed. Thereafter, the petitioner filed first appeal in A.S.No.77 of 1995 which was also dismissed. Thereafter, the petitioner preferred second appeal in S.A.No.809 of 1999. This court while setting aside the findings of the

Trial court by its order dated 30.08.2000, directed the Educational authorities constituted under the Act to have a fresh look on the controversy between the parties, apply their mind to the facts and materials that may be brought before them and decide the issue in accordance with law about the rights of the respective persons vis-a-vis the school.

5.As directed by this Court, the petitioner approached the CEO and made a representation dated 03.05.2007, however, the said representation was not considered by the CEO. Hence, the petitioner approached this Court by filing a writ petition in W.P.No.27093 of 2007. This Court by its order dated 14.08.2007 directed the Educational Officer to consider the representation of the petitioner on merits and in accordance with law.

5.Thereafter, the District Elementary Educational Officer by its order dated 06.03.2008 has rejected the representation of the petitioner. Once again the petitioner filed Writ Petitions in W.P.Nos.15712 and 15713 of 2008 before this Court. This court after elaborate discussion, directed the petitioner to file an appeal before the CEO within a period of four weeks from the date of receipt of a

copy of the order. Thereafter, this Court directed the appellate authority to dispose it of on merits and in accordance with law. Thereafter, the petitioner filed an appeal before the Joint Director of School Education and his request was rejected by the Joint Director of School Education on 23.04.2009.

6.The petitioner once again approached this Court by filing a writ petition in W.P.No.16734 of 2009. This Court after elaborate discussion allowed the W.P.No.16734 of 2009 dated 11.01.2012 by setting aside the impugned order passed by the 2nd respondent dated 28.01.2008 and the impugned order passed by the 1st respondent dated 23.04.2009 and the matter was remanded back to the 2nd respondent to consider the matter afresh by affording reasonable opportunity to the petitioner and by issuing notice to the relevant parties. Thereafter, the 2nd respondent, the Chief Educational Officer by its order dated 25.04.2012 once again rejected the request of the petitioner, aggrieved by the said order, the petitioner preferred an appeal before the Joint Director of School Education, the Appellate authority. Till now, the appeal filed by the petitioner has not been disposed of. Hence, the petitioner has approached this court for appropriate relief.

7.The learned counsel for the petitioner would further submit that without going into the merits, it is suffice that this court issue a direction to the Appellate Authority to pass appropriate orders in accordance with law.

8.Ms.V.Annalakshmi, the learned Government Advocate concedes the request of the petitioner. The Block Educational Officer is also present before this Court.

9.This Court without expressing any opinion on merits, inclined to direct the 1st respondent herein to consider the representation dated 25.03.2002, said to have been made by the petitioner and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

10.The writ petition is disposed of accordingly. No costs.

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04.06.2019

To.

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(Aided School)
College Road, Chennai 600 008

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3.The District Elementary Educational Officer
Namakkal District
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4.The Assistant Elementary Educational Officer
Sendamangalam Panchayat Union
Sendamangalam, Namakkal District



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M.DHANDAPANI, J.

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