



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.07.2019
CORAM:

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
and
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.A. (MD) Nos.175 and 176 of 2012
and
M.P. (MD).Nos.1 and 1 of 2012

W.A. (MD).No.175 of 2012

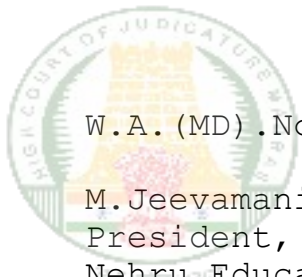
M.Jeevamani,
President,
Nehru Educational Society,
Puthanampatti,
Musiri Taluk,
Trichy District.

... Appellant/Petitioner

-vs-

- 1.The State of Tamil Nadu,
represented by its Secretary,
Educational Department,
Fort St. George,
Chepauk, Chennai - 600 009.
- 2.The Joint Director of School Education,
Nungambakkam High Road,
Nungambakkam,
Chennai.
- 3.The Chief Educational Officer,
Tiruchirapalli.
- 4.The District Educational Officer,
Musiri,
Trichy District.
- 5.M.Ponnambalam
- 6.The Tamil Nadu Private Schools Teachers
Employees Association,
represented by its General Secretary,
K.Thirumavalavan,
S/o.Kadarsha Roather,
4-E, Rahmaniapuram,
Thillai Nagar,
Tiruchirapalli - 620 018.

... Respondents/Respondents



W.A. (MD).No.176 of 2012

M.Jeevamani,
President,
Nehru Educational Society,
Puthanampatti,
Musiri Taluk,
Trichy District.

... Appellant/Petitioner

-vs-

- 1.The State of Tamil Nadu,
represented by its Secretary,
Educational Department,
Fort St. George,
Chepauk, Chennai - 600 009.
- 2.The Joint Director of School Education,
Nungambakkam High Road,
Nungambakkam,
Chennai.
- 3.The Chief Educational Officer,
Tiruchirapalli.
- 4.The District Educational Officer,
Musiri,
Trichy District.
- 5.S.Karmegam
- 6.K.Swaminathan
- 7.Agusteen Peter Fathima
- 8.S.Tamilzhirumporai
- 9.P.Moorthinathan
- 10.C.Annadurai
- 11.M.Ponnambalam

... Respondents/ Respondents

COMMON PRAYER: Writ Appeals have been filed under Clause 15 of Letters Patent, against the common order dated 20.12.2011 passed in W.P. (MD) Nos.10736 of 2009 and 4447 of 2010 respectively by a learned Single Judge of this Court.

Prayer in WP (MD). 10736/ 2009 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the second respondent to grant post approval for



transfer of the Nehru Higher Secondary School, from the previous educational agency to the present Educational Agency the Nehru Education Society at Puthanampatti.

Prayer in WP(MD). 4447/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, and call for the records of the third Respondent in his proceedings in O.M.No.2843/A4/2010 dated 24-03-2010 and quash the same and direct the Respondents 2 to 4 to pay the staff grant through the Education agency as per the provisions of the Tamil Nadu Recognised private schools (Regulation) Act.

For appellant in
both the appeals

: Mr.V.Singan

For respondents 1 to 4
in both the appeals

: Mrs.S.Srimathy,
Special Government Pleader

For 5th respondent in
W.A. (MD) .No.175/2012

: Mr.C.K.Rajan

For 6th respondent in
W.A. (MD) .No.175/2012

: Mr.D.Gnanasekaran

For respondent Nos.5, 6,
7 & 8 in W.A. (MD) .No.176/2012: No appearance

For respondent Nos.9 & 10
in W.A. (MD) No.176/2012

: Mr.D.Gunasekaran

For 11th respondent in
W.A. (MD) .No.176/2012

: Mr.Raguvaran Gopalan
for Mr.U.Nirmalarani

COMMON JUDGMENT

[Judgment of the Court was delivered by DR.VINEET KOTHARI,J.]

The present Writ Appeals have been filed by the appellant / M/s. Nehru Educational Society, through its President Mr.M.Jeevamani, Trichy District, aggrieved by the order of the learned Single Judge dated 20.12.2011, disposing of W.P.(MD) Nos.10736 of 2009 and 4447 of 2010, along with a contempt petition in Cont.P.(MD) No.669 of 2010.

2. The learned Single Judge in the order impugned before us dismissed the writ petitions as well as the contempt petition and directed the State Government to take appropriate steps within a period of four weeks to secure the properties of the school,



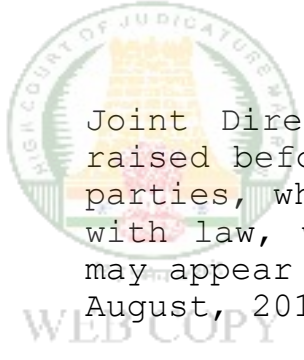
including its right to run the management of the school. The operative portion of the order passed by the learned Single Judge is reproduced hereunder:

"34. Before parting with the case, it must be noted that the officials of the educational department have no clue about dealing with schools run by a society, which becomes subsequently defunct. Without initiating any action in terms of the provisions of the Act, they have resorted to a least and soft option of resorting to direct payment system leaving the management to be controlled by persons who have no right to control over the same. The State Government (first respondent) is hereby directed to take appropriate steps within four weeks to secure the properties of the school including its right to run the management of the school. As a first step, they can resort to appointing a Special Officer under Section 18-A of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 or take over the management under Section 34 of the Act. After taking over the management under Section 34, the Act under Section 35 also provides as to how the property of the school can be dealt with in case of relinquishment of control of the property. It is also made clear that the two suits pending before the Civil Courts at Tiruchirapalli cannot bar the Government taking a decision as they do not relate to Government exercising its power under the Private Schools Act and the prayer made in the two suits do not run counter to any claim by the Government."

3. The learned counsel for the appellant Mr.V.Singan urged before us that after a long lapse of period, the issue to be decided is whether the present appellant had already taken over the management of the said educational institution or a new management is running the school. According to him, a show cause notice has been issued to the appellant at the first instance on 27.08.2009 to which the appellant Society replied on 24.09.2009 itself and thereafter also some correspondence ensued between the parties. But the competent authority viz., the second respondent / the Joint Director of School Education, Chennai, never decided the said issue in accordance with law, after giving an opportunity to the appellant, on account of the pendency of the Civil Suits between two varying groups of Management of the schools. One suit has been dismissed against which a first appeal is pending in this Court, while another suit is still pending before the Trial Court.

4. The learned Special Government Pleader supported the impugned order.

5. Having heard the learned counsel for the parties, we are of the opinion that the *inter se* dispute between the parties about the management can deserve to be decided by the competent Civil Court only. The issue raised before the Joint Director of the School Education, Chennai, in response to the show cause notice dated 27.08.2009 deserves to be decided by the said authority under the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. In this circumstance, we direct the second respondent,



Joint Director of School Education, Chennai, to decide the issue raised before him, after hearing the appellant as well as the other parties, whoever may be interested in the present lis, in accordance with law, within a period of three months from today. The parties may appear before the second respondent in the first instance on 19th August, 2019.

6. With these observations and directions, the Writ Appeals stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary,
Educational Department,
Fort St. George,
Chepauk, Chennai - 600 009.

2.The Joint Director of School Education,
Nungambakkam High Road,
Nungambakkam,
Chennai.

3.The Chief Educational Officer,
Tiruchirapalli.

4.The District Educational Officer,
Musiri,
Trichy District.

+1 CC to M/s.D.GNANASEKARAN, Advocate (SR-77810[F] dated 26/07/2019)

+2 CC to M/s.U.NIRMALARANI, Advocate (SR-78100 & 78099 [F] dated 26/07/2019)

+1 CC to M/s.SPL GP (SR-78179[F] dated 29/07/2019)

+1 CC to M/s.V.SINGAN, Advocate (SR-78139[F] dated 29/07/2019)

Common judgment made in
W.A. (MD) Nos.175 and 176 of 2012
26.07.2019

gcg
JM/07.08.2019/5P-10C