



20BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.12560 of 2019

WEB COPY

M.Murugan

...Petitioner

-Vs-

1.The District Collector,
Madurai District, Madurai.

2.The Chief Educational Officer,
Madurai District,
Tallakulam, Madurai.

3.The Principal,
CEOA Metric Higher Secondary School,
Sriram Nagar,
Kalainagar Extn.
A.Kosakulam, Madurai - 17.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, to direct the respondents to consider the petitioner's application dated 25.03.2019 for admission in the 1st standard to his daughter Akshaya in the 3rd respondent school under the Right of Children to Free and Compulsory Education Act, 2009, within the stipulated period by this Court.

For Petitioner : Mr.M.Mohamed Sherbudeen
For Respondents : Mrs.S.Srimathy, Spl.G.P.
for RR1 and 2
R3 - No appearance

ORDER

The prayer in this writ petition is for a Writ of Mandamus, to direct the respondents to consider the petitioner's application dated 25.03.2019 for admission in the 1st standard to his daughter Akshaya in the 3rd respondent school under the Right of Children to Free and Compulsory Education Act, 2009, within the stipulated period by this Court.

2.Heard Mr.M.Mohamed Sherbudeen, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents 1 and 2. Despite notice having been served and the name of the third respondent having been printed in the cause list, when the case is called, no one is present. Even during the last hearing also, no one was present on behalf of the 3rd respondent.



3.The learned counsel appearing for the petitioner submits that, to get admission in the 1st Standard in 3rd respondent school for the daughter of the petitioner viz., one Baby Akshaya, under the RTE Act, the petitioner had made an application to the 3rd respondent school. Since the same has not been considered and no admission has been given, the petitioner is before this Court.

4.I have heard the learned Special Government Pleader appearing for the respondents 1 and 2, who would submit that, under the Right of Children to Free and Compulsory Education Act, 2009, especially, under Section 12 of the Act, admission can be made in the I standard i.e. beginning of the classes in any school, whether it is Government or Private aided or unaided. But, at the same time, the Government, pursuant to the Right of Children to Free and Compulsory Education Act, 2009, has issued G.O.NO.66, School Education Department, dated 07.04.2017, where, it has been specifically mentioned as follows:

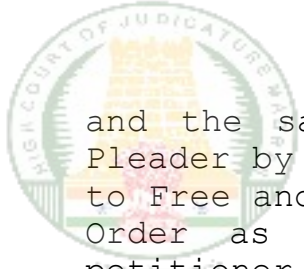
"The areas or limits or neighbourhood specified in sub-rule (1) of rule 4 of Tamil Nadu Right of Children to Free and Compulsory Education Rules, 2011 is a distance of one kilometer for classes LKG or I for the admissions made in pursuance of Clause (c) of sub-section (1) of section 12 of the Act."

5.In view of the same, if a school is having classes of kindergarten, admission shall be made from class LKG and if a school is having classes from I standard, admission has to be made from I standard.

6.Here, in the case in hand, according to the learned counsel appearing for the petitioner, 3rd respondent school is having kindergarten classes i.e. from LKG. Hence, the learned Special Government Pleader submits that, admission shall be made only in LKG. The students, who have been admitted in LKG will be given promotion to UKG and next year, they will be given further promotion to I Standard. Therefore, only the inmates of the school concerned i.e. the 3rd respondent school, would be admitted to I Standard. Therefore, there is no chance to give admission from outside students and they are not entitled to get the benefit under the Right of Children to Free and Compulsory Education Act, 2009 or the Government Order referred to above.

7.The learned Special Government Pleader also submits that, if at all the petitioner's daughter is to be admitted in the I standard in the neighbourhood school, there is a Government School called Government Elementary School, Anaiyur, where the petitioner is residing, where the classes are there from I standard and therefore, admission can be given to the daughter of the petitioner.

8.The said stand taken by the learned Special Government Pleader appearing for the official respondents has been considered



and the said submissions made by the learned Special Government Pleader by quoting the relevant provisions of the Right of Children to Free and Compulsory Education Act, 2009 as well as the Government Order as referred to above, are appealing and therefore, the petitioner since wants admission for his daughter only in I standard, such admission under Right of Children to Free and Compulsory Education Act, 2009 cannot be compelled to be given in the 3rd respondent school, where the admissions are made from LKG i.e. kindergarten classes and no admission for outside students to be given in I Standard. When that being the position, the prayer sought for in the writ petition for admission in I Standard to the daughter of the petitioner at the 3rd respondent school cannot be granted. But, at the same time, the petitioner's daughter can very well be admitted in the neighbourhood school in I Standard i.e. at Government Elementary School at Anaiyur.

9. In that view of the matter, this Court is inclined to pass the following order, by disposing this writ petition:

"The petitioner shall give application to the Head Master concerned of the Government Elementary School at Anaiyur immediately and on receipt of such application, admission shall be given to the petitioner's daughter viz. Baby Akshaya in I Standard at the Government Elementary School, Anaiyur for the academic year 2019-20."

10. With these observation and direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Records)

/ True Copy /

Sub Assistant Registrar (CS-II)

Arul

To

1. The District Collector,
Madurai District,
Madurai.
2. The Chief Educational Officer,
Madurai District,
Tallakulam, Madurai.
3. The Head Master,
Government Elementary School,
Anaiyur.



+1 CC to M/s.M.MOHAMED SHERBUDEEN, Advocate
(SR-68813[F] dated 14/06/2019)

+1 CC to M/s.SPL GP (SR-68893[F] dated 14/06/2019)

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Order made in
W.P. (MD) No.12560 of 2019

Dated:
13.06.2019

ES/14.06.2019/4P/6C