



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2019

CORAM:

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**THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD**

W.A.[MD]No.323 of 2014

- 1.The Manager of Salvation Army School,
The Territorial Head Quarters,
South Eastern Territory,
Maharaja Nagar, High Ground,
Tirunelveli -11.
- 2.The Correspondent,
The Salvation Army Higher Secondary School,
Vetturnimadam, Nagercoil.

... Appellants/
Respondents 2 & 3

Vs.

- 1.S.Mathias Selvaraj ... 1st respondent/ Petitioner
- 2.The Joint Director of School Education,
(Higher Secondary) College Road,
Chennai -6.
- 3.M.Kingsley
- 4.The District Educational Officer,
Nagercoil.
- 5.The Chief Educational Officer,
Nagercoil. : Respondents 2 to 5/
Respondents 2, 4 to 6

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 27.03.2012 passed in W.P.(MD)No.9639 of 2006, insofar as holding the appellant - school as a Non Minority Educational Institution alone.

Prayer in WP(MD) . 9639/ 2006 :

To issue a Writ of Certiorarified Mandamus, to call for records pertaining to the order dated 13/02/2004 of the third respondent and quashes the same and direct third respondents to appoint the petitioners as Headmaster in 3rd respondent school.



For appellants : Mr.H.Thayumanaswamy
For 1st respondent : R1 Died
For 3rd respondent : Mr.M.E.Ilango
For respondents 2, 4 & 5: M/s.S.Srimathy,
Special Government Pleader

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JUDGMENT

[Judgment of the Court was delivered by
The Hon'ble Chief Justice]

Heard the learned counsel for the appellants, who submits that the main relief as prayed for and granted by the learned Single Judge to the respondent No.1 herein has now become infructuous, as the respondent No.1 died. Before us, there is no one to represent the respondent No.1. Therefore, the aforesaid statement of the learned counsel for the appellants can be taken into account.

2. Learned counsel for the appellants further contends that the statement of fact as recorded in paragraph No.2 of the impugned judgment that the appellant institution is a non minority aided institution is an incorrect recital, inasmuch as it is a clear stand of the learned counsel for the appellants before the learned Single Judge through their counter affidavit that the institution is a minority institution. It is urged that without considering the said plea or recording any finding, learned Single Judge proceeded to allow the writ petition and such a finding is likely to affect adversely. Hence, the said observation against the appellants be dissolved.

3. We have considered the submissions raised. In view of the death of the respondent No.1 as stated on behalf of the appellants, the main cause of action has become infructuous. The issue as to whether the appellant is a minority institution or not now remains academic for the present purpose. Therefore, we consign the appeal to records with the observation that the statement of fact in paragraph No.2 of the impugned judgment shall not be taken to be having any binding effect without prejudice to the rights of the appellants to raise the issue about status of the institution in any appropriate proceedings.

4. The appeal is consigned to records with the said observation. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar



To

1.The Joint Director of School Education,
(Higher Secondary) College Road,
Chennai -6.

2.The District Educational Officer,
Nagercoil.

3.The Chief Educational Officer,
Nagercoil.

+1 CC to M/s.H.THAYUMANASWAMY, Advocate (SR-105459[F] dated
17/12/2019)

+1 CC to M/s.SPL.GP (SR-105595[F] dated 18/12/2019)

+1 CC to M/s.M.E.ILANGO, Advocate (SR-105865[F] dated 19/12/2019)

JUDGMENT MADE IN
W.A.[MD]No.323 of 2014
17.12.2019

GCG
MS/03.01.2020/3P.7C