



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.22946 of 2019

and

W.M.P(MD)No.19696 of 2019

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Royal Matriculation Higher Secondary School,
No.1, S.N.M.Rahman Nagar, East Gate,
Thanjavur - 613 001,
Rep. by its Correspondent,
Syed Fiaz Peeran,
S/o.Syed Khaja Peeran (late).

... Petitioner

vs.

1.The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.

2.The Chief Educational Officer,
Thanjavur District,
Thanjavur.

3.The District Educational Officer,
Thanjavur Educational District,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the third respondent in O.Mu.No.3668/A8/2019 dated 15.10.2019 and to quash the same and consequently direct the respondents to pass orders for granting Renewal of Recognition for standards LKG to 12th standards for the period from 2014 to 2017 and 2017 to 2020 based on the proposal re-submitted by the petitioner School dated 21.06.2019.

For Petitioner	: Mr.A.Arun Prasad
For Respondents	: Mr.M.Karuppasamy, Government Advocate.

ORDER

Mr.A.Arun Prasad, learned counsel on behalf of writ petitioner and Mr.M.Karuppasamy, learned Government Advocate, who accepts notice on behalf of all three respondents are before this Court.



2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. An 'order signed on 15.10.2019 by the third respondent bearing Reference O.Mu.N.3668/A8/2019' (hereinafter referred to as 'impugned order' for brevity, clarity and convenience) has been called in question in instant Writ Petition.

4. Considering the narrow compass on which instant Writ petition now turns, suffice to say that impugned order came to be passed by the third respondent on a proposal for renewal of recognition resubmitted on 21.06.2019 by writ petitioner. To be noted, proposal for renewal of recognition is qua running a School.

5. From the submissions made by both sides before this Court and on a perusal of the case file, it comes to light that impugned order which says that writ petitioner should produce original ownership certificate qua property in which School is situate and also get an order from the competent / jurisdictional Court / Tribunal in W.O.P.No.16 of 2017 for considering the draft proposal came to be passed *inter alia* owing to pendency of legal proceedings in competent / jurisdictional Court / Tribunal.

6. From the narrative supra, it comes to light that impugned order is predicated on two grounds. One ground is regarding production of original ownership certificate. The impugned order calls upon the writ petitioner to produce the original ownership certificate. Learned counsel for writ petitioner submits that they are ready to produce the original. This puts an end to the first ground.

7. As far as second ground is concerned, it would be evident from the narrative thus far that the same is based on pendency of legal proceedings in competent / jurisdictional Court / Tribunal by way of W.O.P.No.16 of 2017. Copy of this W.O.P.No.16 of 2017 has not been placed before this Court. However, necessary averments in this regard are contained in paragraph 7 of the affidavit filed in support of instant Writ Petition and the same reads as follows:

'7. I submit that the fact remains that the School building was constructed by the petitioner's father Thiru. Syed Khaja Peeran (late) in the land in T.S.No.24/2 which originally belong to Syed Hussian Peeran, the grandfather of the petitioner, later, descended on his legal heirs and allotted to the petitioner's father Syed Khaja Peeran through partition deed dated 11.01.1997. While so, the petitioner's paternal uncle Syed Sulthan Peeran raised a dispute over the property by filing civil suit in O.S.No.86 of 1998 on the



file of the Principal Sub Court, Thanjavur to declare the partition deed dated 11.01.1997 as null and void and the same was dismissed on 24.06.2002. The matter was culminated into orders passed in Second Appeal in S.A(MD)No.1690 of 2004 dated 22.06.2012 in modification of Judgment and Decree of the lower Appellate Court with liberty to the plaintiff to approach the Wakf Tribunal within 60 days and the Wakf Tribunal shall decide the issue as per the law. However, consequently, the said Syed Sulthan Peeran has not preferred any petition before Wakf Tribunal for long time after the orders passed in Second Appeal dated 22.06.2012. While so, after more than five years, he has filed Original Petition before Wakf Tribunal in W.O.P.No.10 of 2017 and W.O.P.No.16 of 2017 wherein the Educational Authorities have been impleaded as respondents in W.O.P.No.16 of 2017. However, there is no interim order granted in the Original Petition and it is pending.'

8.A perusal of the aforesaid averments in the writ affidavit as well as relevant portion of the impugned order reveals that there is a litigation pending with regard to the property in which School is situate ie., the school for which renewal of recognition is being sought. Furthermore, it comes to light that nature of litigation pertains to proceedings under Wakf Act. Besides paragraph 7, one other part of the case file which brings to light this phenomenon of this case is lease deed dated 06.07.2009. Copy of this lease deed reveals that writ petitioner represented by its Correspondent is the lessee and the lessor is a Trust which goes by name 'S.K.Peer Trust' and one H.Syed Khaja Peeran describing himself as administrator of said Trust has executed this lease deed. To be noted, this lease deed is placed before this Court by writ petitioner.

9.From the sum totality of the aforesaid aspects of the matter, it comes to light that there is litigation *inter alia* on the ground that property in which School is situate is Wakf property. In this view of the matter, this Court is left with the considered view that third respondent has not erred in any manner in holding that writ petitioner's application for renewal will be considered after getting suitable orders from Tanjore Court in which W.O.P.No.16 of 2017 is pending. Furthermore, impugned order has not conclusively decided the rights of writ petitioner in any manner. The impugned order merely says that on production of original ownership certificate as well as orders from competent / jurisdictional Court / Tribunal in W.O.P.No.16 of 2017, draft for renewal of recognition will be considered. Therefore, this Court is unable to convince itself that impugned order deserves to be interfered with in writ jurisdiction.



10.Owing to the facts that have been set out supra, instant Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Thanjavur District,
Thanjavur.
3. The District Educational Officer,
Thanjavur Educational District,
Thanjavur.

+1 CC to Mr.A.ARUN PRASAD, Advocate (SR-95502[F] dated 01/11/2019)
+1 CC to SPL GP (SR-95483[F] dated 01/11/2019)

W.P(MD)No.22946 of 2019
31.10.2019

ps

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