



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 01.09.2020  
CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD)No.10575 of 2020  
and  
W.M.P. (MD) Nos.9332 and 9334 of 2020

The Correspondent,  
Sacred Heart Convent Primary School,  
Srivilliputtur - 626 125,  
Virudhunagar District.

... Petitioner

Vs.

1. The State of Tamil Nadu,  
rep. by its Secretary,  
Department of School Education,  
Fort St. George, Chennai - 600 009.

2.The Director of School Education,  
College Road, Chennai - 600 006.

3. The District Collector,  
Virudhunagar District,  
Virudhunagar.

4. The Chief Educational Officer,  
Virudhunagar, Virudhunagar District.

5. The District Educational Officer,  
Srivilliputtur,  
Virudhunagar District.

... Respondents

**PRAYER** : Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceeding issued by the 4<sup>th</sup> respondent Chief Educational Officer in Na.Ka.No.1261/A4/2020 dated 11.03.2020 and the consequential proceedings of the 5<sup>th</sup> respondent DEO in Na.Ka.No.639/A5/2019 dated 15.07.2020, quash the same insofar as the petitioner school is concerned.

For Petitioner

:Mr.K.Ragatheesh Kumar

for M/s.Isaac Chambers

For Respondents

:Mr.A.Thiyagarajan, G.A.

**ORDER**

The prayer in this writ petition is for a Writ of Certiorari, calling for the records relating to the impugned proceeding issued by the 4<sup>th</sup> respondent, Chief Educational Officer in Na.Ka.No.1261/A4/2020, dated 11.03.2020 and the consequential proceedings of the 5<sup>th</sup> respondent, DEO in Na.Ka.No.639/A5/2019 dated 15.07.2020 and quash the same insofar as the petitioner school is concerned.

2.The issue raised in this writ petition is already covered by this Court's order dated 31.08.2020 made in W.P.(MD) Nos.10144 and 10247 of 2020, where, in respect of two schools viz., Sacred Heart Girls Higher Secondary School and Sacred Heart Convent High School, Srivilliputtur, Virudhunagar District under the same management, this Court has passed the said order after detailed discussion. The relevant portion of the said order reads thus:

"12. I have heard the submissions made by the learned counsel for both sides and have perused the materials placed before this Court.

13.From the said submission of both sides, one could find that there had been an agitation on 30.01.2020, which allegedly taken place after school hours, where, the teachers and some section of students of the petitioner schools also participated, where some slogans were raised against the policy of the Government and in respect of such agitation, even though it was claimed to be a peaceful one for which reason also was given by the schools management, the officials version is that, the agitation was without any permission from the Law Enforcing Agency, where en masse teachers and students of these schools were permitted to participate and that could not have been taken place without any permission or nod of the schools. However, that was disputed stoutly by the school management in their reply dated 04.02.2020. Consequently, after issuance of show cause notice seeking explanation from the schools, it is the case of the school management that, they conducted an oral enquiry with the teachers concerned and thereafter, they gave reply dated 04.02.2020, where, they have stated that, it was a voluntary participation of the teachers and students of the school, that too, after school hours, while they were returning to home, that too, without knowing what is the intention of the organizers for the said agitation and therefore, the same cannot be taken as if that it was organized or supported by the school management by making the teachers and students participating in such



agitation. Such a stand of the school management since has not been accepted by the officials, they now issued the impugned order seeking drastic action against the concerned teachers at the hands of the school management, that are challenged before this Court.

14. In this regard, it is to be noted that, though a reply was given on 04.02.2020 by the school management, in response to the show cause notice dated 03.02.2020, on perusal of the said reply, this Court finds that, admittedly only oral enquiry was conducted by the school management, where there is no proof to show that the school management has given written notices seeking explanation from every teacher, who participated in the agitation and after getting the written reply only the management prepared a comprehensive report for the purpose of submitting the same to the officials.

15. Another aspect also to be noted that, the officials since have not accepted the reply dated 04.02.2020 given by the school management, however, having accepted the two reports or other reports, which they heavily relied upon, from other sources or official sources, have come to the conclusion that, actions have to be taken against the teachers of the schools concerned and accordingly, the present impugned notices have been issued. Whereas, it is the categorical case of the petitioners management, as projected by the learned senior counsel that, those reports allegedly relied by the official respondents have not been furnished to the petitioner schools and without having furnished the reports, which have been relied upon to take an adverse action against the school management, since the impugned orders were passed, such non-submission of the report would render the entire proceedings vitiated.

16. Therefore, it is the case of the petitioners as submitted by the learned senior counsel that, once the officials come forward to furnish those reports relied by them to the petitioner management and seek explanation of the same, certainly, the school management, after verifying such reports, would give their reply to the satisfaction of the authorities. Apart from that, the learned senior counsel has also agreed that, the teachers, who participated in the agitation dated 30.01.2020 can very well be issued a notice separately against each of them and after getting their explanation in writing, with regard to



under what circumstances they participated in the agitation and what was exactly transpired in the said meeting according to their knowledge and after ascertaining all those aspects from their reply in this regard, a comprehensive report would be prepared by the management of both the schools, accordingly, the same would be submitted to the official respondents for their consideration to drop the proceedings initiated by them.

17. In this context, it is to be noted that, the teachers employed in private schools are governed by Code of Conduct as per Rule 16 of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, which reads thus:

"16. Teachers and other persons employed in private schools to be governed by Code of Conduct.-

(1) The teachers and other persons employed in private school shall be governed by the Code of Conduct as specified in Annexure II.

(2) A teacher or other person employed in a private school shall be liable to disciplinary action and punishment, if he violates any provision of the Code of Conduct which may include, dismissal or removal or termination of service or reduction in rank.

(3) Violation of any one of the standards of conduct defined by the school committee shall render the teacher or the other person liable to suitable disciplinary action and punishment which shall not, however, include dismissal, removal, termination of service or reduction in rank.."

18. Under Rule 16(1), the Code of Conduct has been specified in Annexure II under the heading "Code of Conduct for teachers and other persons employed in private school". Among various Code of Conduct regulations made in the said Code, regulations 7, 10 and 11 are relevant in the present context, which reads thus:

"7. No teacher or other person employed in a private school shall engage himself in any political activity. He shall not be associated with any political party or any organisation which takes part in politics or shall subscribe to or assist in any other manner any political movements.

10. No teacher or other person employed in a private school shall engage himself or participate in any demonstration or activity which is prejudicial to the sovereignty and integrity of India, the security of the State, the friendly relation with foreign States, public orders, decency or morality or which



involves contempt of Court, defamation or incitement to an offence.

11.No teacher or other person employed in a private school shall indulge in any criticism of the policies of the Government either directly or indirectly or participate in activity which bring disrepute to the Government.

Adoption of legitimate methods of ventilating grievances, however, shall not be considered as criticism of the Government."

19. In view of the said submissions made by the learned senior counsel appearing for the schools and in view of the fact that some other reports since have been relied upon by the officials, before passing the impugned order to take action against the teachers in *en masse* in these two schools, this Court feels that, the said reports, relied upon by the officials, should have been furnished to the schools management and on the part of the school management, they also should have conducted an enquiry by giving notices to the teachers and after getting their reply, schools management should have prepared a comprehensive report to be filed before the authorities. Since the learned senior counsel has agreed to submit a comprehensive report after having replies from the teachers within reasonable period, this Court is of the view that, taking into account of the circumstances of the case, the following orders can be passed:

(i)The petitioners Management in both cases shall issue notices to the teachers concerned, seeking show cause or explanation from each of the teacher, who allegedly participated in the said agitation taken place on 30.01.2020 allegedly organized by NGO called "Thamilaga Makkal Otrumai Medai".

(ii)On issuance of such notices by the school management, the teachers concerned should give their explanation/reply explaining the circumstances, under which, they participated in the agitation and on receipt of the reply from each of the teacher, all those replies shall be considered and accordingly, the school management shall prepare a detailed comprehensive report with supporting documents and submit the same to the official respondents.

(iii)The needful, as indicated above, on the part of the school managements, shall be completed within a period of four weeks from the date of receipt of a copy of this order.

(iv)Insofar as the respondents are concerned, they shall furnish the two reports or any other



reports they relied upon or going to rely upon in this issue against the petitioners to take any action against them and on receipt of such reports to be furnished by the officials, the school management/petitioners shall, on going through the same, give their reply in detail, besides the comprehensive report to be submitted by the schools as indicated above.

(v)After the comprehensive report by way of reply submitted by the schools as indicated above and also the reply of the schools against the reports to be furnished by the officials, which they rely upon, the official respondents shall consider both reports or both replies comprehensively and accordingly, take a decision as to whether the proposal emanated from the official respondents to take action against the teachers concerned of the schools, can be dropped or not. Till such time, i.e., till final decision is taken in this regard as indicated above by the official respondents after following all these compliances directed above, the impugned orders shall not be given effect to or acted upon and it shall be kept in abeyance.

20.With these directions, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

3.Now, it is a third school comes under the same management, where also, the same issue had been raised alleging that, the teachers and students of the school, on 30.01.2020, participated in the agitation programme conducted by an NGO called "Thamilaga Makkal Otrumai Medai", supported by third parties group. The facts of this case is similar to that of the other two writ petitions. Therefore, in view of the same, this writ petition is also disposed of with the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

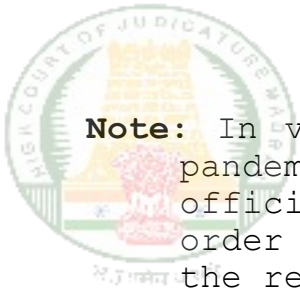
Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

1. The Secretary,  
State of Tamil Nadu,  
Department of School Education,  
Fort St. George, Chennai - 600 009.
2. The Director of School Education,  
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Virudhunagar District.
4. The Chief Educational Officer,  
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5. The District Educational officer,  
Srivilliputtur, Virudhunagar District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate SR-15506.

**W.P. (MD) No.10575 of 2020**

**01.09.2020**

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