



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.02.2020
CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE Mrs. JUSTICE T. KRISHNAVALLI

C.M.P.(MD)No.7629 of 2019
in W.A.(MD)No.1533 of 2018
in W.P.(MD)No.17951 of 2018

A.Arulanandam .. Petitioner/Respondent No.4

Vs.

1. St. Antony's Elementary School,
Kallathupatti School Education Committee,
rep. by its Secretary, A.Alexis ...1st Respondent/Appellant

2. The Chief Educational Officer,
Dindigul.

3. The District Educational Officer,
Dindigul.

4. The Block Development Officer,
Dindigul Rural,
Dindigul District.

.. Respondents 2 to 4/
Respondents 1 to 3

* * *

Prayer : Civil Miscellaneous Petition filed under Order IX Rule 13 read with 151 of the Code of Civil Procedure praying to recall the order dated 01.11.2018 passed in W.A.(MD)No.1533 of 2018 on the file of this Court.

Prayer in WA(MD). 1533/ 2018 :

Writ Appeal filed under clause 15 of the Letters patent against the order, dated 31.03.2018 made in WP(MD)No.17951 of 2018, on the file of this Court.

Prayer in WP(MD). 17951/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.3624/A2/2018 dated 05.07.2018 and quash the same and direct the respondents 2 and 3 to approve the School Committee proposal submitted by the petitioner dated 17.01.2018.

* * *



For Petitioner : Mr.M.E.Ilango
For Respondents : Mr.V.Paneerselvam for R1
Ms.S.Srimathy,
Special Govt. Pleader for RR 2 to 4

WEB COPY

ORDER

The petitioner, who was the fourth respondent before this Court in W.A.(MD) No.1533 of 2018, has filed this petition seeking to recall the order dated 01.11.2018 made therein.

2. The background facts leading to the filing of this petition would run infra :

(i) The petitioner claims that he is the Secretary of St. Antony's Aided Primary School Committee, which was established by his father in the year 1949. Due to age related difficulties, his father, by an resolution, transferred the Educational Agency to one Mr.Innasi Muthu, which was recorded in the proceedings of the first respondent dated 22.01.2009. On 01.01.2012, the educational agency was transferred in the name of the petitioner, which was also recorded by the respondents in the proceedings dated 26.04.2013 and since then he has been managing the affairs. When he submitted a proposal dated 05.05.2018 for approval to the third respondent for fresh school committee for a period of three years from 07.12.2017, the same was refused by the first respondent on 29.05.2018 on the ground that a writ petition is pending in W.P.(MD) No.4648 of 2018, at the instance of his brother one Mr.Alexis. Subsequently, the school was brought under the direct payment vide order dated 05.07.2018, which he questioned in W.P.(MD)No.16647 of 2018 with a further prayer to approve the school committee. The very same order was also questioned by his brother in W.P.(MD)No.17951 of 2018 seeking a further direction to the respondents therein to approve the proposal submitted by him on 17.01.2018.

(ii) The Writ Court by a common order dated 31.08.2018 dismissed all the three writ petitions observing that this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, cannot adjudicate the factual dispute between the parties concerned and thus, directed the parties to approach the appropriate Civil Court in order to establish their rival claims against each of them.

(iii) The brother of the petitioner Mr.Alexis questioned the order of the writ Court in W.A.(MD)No.1533 of 2018, which was disposed of on 01.11.2018 with a direction to the second respondent herein to consider the claim of the appellant/writ petitioner therein in terms of Form VII, that is approved by the educational authorities.

(iv) Claiming that he was not heard while disposing of the said writ appeal, though he was the fourth respondent therein, the petitioner sought to review the said order.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Learned counsel for the petitioner submits that no notice



in W.A.(MD) No.1533 of 2019/the first respondent herein, the authorities would not have proceeded with the matter.

8. Further, the other Division Bench in the order dated 26.11.2018 in WA (MD)No.1573 of 2018, after recording the submissions of the parties, dismissed the appeal and also made it clear that the observations made in the said order were only for the purpose of disposing of the said writ appeal and the civil court may decide the rights of the parties uninfluenced by any of the observations made by this Court in the said appeal. Thus, the petitioner cannot take umbrage under the observations made by the Division Bench in the order dated 26.11.2018 and also cannot say that there are rival orders. On the other hand, from the above narration, it is clear that there are no rival orders passed by this Court, as claimed by the learned counsel for the petitioner.

9. In the result, the petitioner has not made out any ground warranting this Court to recall the order dated 01.11.2018. Accordingly, this miscellaneous petition is dismissed as devoid of merits. No costs. It is open to the petitioner to take any action in the manner known to law, if he is so advised.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gg

To

1. The Chief Educational Officer,
Dindigul.

2. The District Educational Officer,
Dindigul.

3. The Block Development Officer,
Dindigul Rural,
Dindigul District.

+1 cc to Mr.V.Paneerselvam, ,Advocate, SR No.9508

C.M.P.(MD)No.7629 of 2019
in W.A.(MD)No.1533 of 2018
in W.P.(MD)No.17951 of 2018
28.02.2020

KK/11.03.2020/ 4P- 5C