



W.P. (MD).Nos.15718 & 13339 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).Nos.15718 & 13339 of 2014

and

MP (MD) Nos.1, 1 of 2014 & WMP (MD) No.2938 of 2016

W.P. (MD).No.15718 of 2014

Pasumpon Thevar High School,
Mamsapuram, Srivilliputhur Taluk,
Rep by its President,
Kalimuthu.

... Petitioner

Vs

- 1.The Government of Tamilnadu,
Rep by its Secretary to Government,
Social Welfare and Nutritious,
Meal Programme Department,
Fort St.George, Chennai-600 009.
- 2.The Director of Social Welfare
and Noon Meal Programme Department,
Chepauk, Old Engineering College Complex,
Chennai-600 005.
- 3.The District Collector,
Virudhunagar Collectorate Building,
Virudhunagar, Virudhunagar District.
- 4.The Personal Assistant,
(Noon-Meal)
Virudhunagar District,
Virudhunagar.
- 5.The Commissioner,
Srivilliputtur Panchayat Union,
Srivilliputtur, Virudhunagar District.
- 6.The District Elementary Educational Officer,
Virudhunagar Collectorate Building,
Virudhunagar,
Virudhunagar District.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 4th respondent made in R3/16921/2013 dated 27.05.2014 and quash the same as illegal and in violation of principles of law and direct the respondents to continue to provide the Noon Meal under the scheme and programme in accordance with law in the petitioner's Pasumpon Thevar High School, Mamsapuram, Srivilliputhur Taluk, Virudhunagar District.

For Petitioner : Mr.G.Marimuthu
For R1 to R4 & R6 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader
For R5 : Mr.S.Satheesh Kumar

W.P. (MD).No.13339 of 2014

K.H.N.T.B. Sivanthi Athithanar High School,
Koviloor, Devadanam Post,
Rajapalayam Taluk,
Rep by its Secretary
P.Murugesan

... Petitioner

-Vs-

- 1.The Government of Tamilnadu,
Rep by its Secretary to Government,
Social Welfare and Nutritious,
Meal Programme Department,
Fort St.George,
Chennai-600 009.
- 2.The Director of Social Welfare
and Noon Meal Programme Department,
Chepauk, Old Engineering College Complex,
Chennai-600 005.
- 3.The District Collector,
Virudhunagar Collectorate Building,
Virudhunagar, Virudhunagar District.
- 4.The Personal Assistant,
(Noon-Meal)
Virudhunagar District,
Virudhunagar.



5.The Commissioner,
Rajapalayam Panchayat Union,
Rajapalayam, Virudhunagar District.

6.The District Elementary Educational Officer,
Virudhunagar Collectorate Building,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 4th respondent made in R3/16921/2013 dated 27.05.2014 and quash the same as illegal and in violation of principles of law and direct the respondents to continue to provide the Noon Meal under the scheme and programme in accordance with law in the petitioner's K.H.N.T.B. Sivanthi Athithanar High School, Koviloor, Virudhunagar District.

For Petitioner : Mr.G.Marimuthu

For R1 to R4 & R6 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

For R5 : Mr.S.Satheesh Kumar

COMMON ORDER

The order dated 27.05.2014 passed by the District Collector stopping the Noon Meal Programme in the petitioners' school is under challenge in the present writ petitions.

2.The learned counsel appearing for the petitioners made a submission that the petitioners are enjoying the benefit of the Noon Meal Scheme for the past several years, despite the fact that the petitioners' school is not a Government school nor a aided school.

3.Admittedly, the petitioners' school is a private school and there is no fund is released from the Government. The petitioners states that they are doing social service and it is a charitable institution. However, the facts remain that the petitioners' school is not a Government aided school nor funded by the Government.

4.The 3rd respondent filed a counter and stating that as per G.O.Ms.No.277 General (Mu.Ku.Thi) Department dated 22.02.1983 Puratchi Thalaivar MGR Noon Meal Scheme can be implemented at the Government Schools and the Schools run by the local administration body like panchayat union etc., and the Schools are receiving the aid from the Government alone.



5.The petitioners' school is a self financed school. Thus, free Noon Meal Scheme cannot be implemented in the petitioners' school as per Government order dated 22.02.1983.

6.This apart, the 2nd respondent/Director of Social Welfare of the Noon Meal Programme Department has issued a circular No.28501/12-5 (5/1)/2012, dated 25.10.2012 reiterated that the Government Order, stated that Free Noon Meal could not be continued in other schools, which did not receive any aid from the Government. Thus, the District Collector has passed the impugned order stopping the Noon Meal Programme to the petitioners' school, which are private schools.

7.It is stated by the third respondent that due to the petitioners' school's status as self finance, the loss caused by the petitioner's school in WP(MD)No.15718 of 2014 for providing free Noon Meal Programme for the year 2006-07 was Rs.1,39,070/-, for the year 2007-08 was Rs.1,75,316.03 and for the year 2008-09, it was disbursed upto Rs.2,08,102.50. It is further stated that the loss caused by the petitioner's school in WP(MD)No.13339 of 2014 for providing free Noon Meal Programme for the year 1994-2010 was Rs.1,80,494.38. It is stated that in the event of providing Free Noon Meal to the private school, the State exchequer would be over burden. As per the Government Order, Free Noon Meal cannot be provided to the benefit of the private school. Even for providing Free Noon Meal to the children studying in Government aided school or Government school, the State spending very huge amount. If the benefit is extended to the private schools, the financial burden will be on the higher side and therefore, the benefit cannot be extended to the petitioners' schools. The Free Noon Meal Scheme was retrieved from the petitioners' schools from 27.10.2014.

8.In view of the fact that the petitioners' schools are enjoying the self finance status and they cannot be claimed the benefit of the Free Noon Meal Scheme, this Court is of the considered opinion that the financial implications are explained by the Government, then, the Court cannot interfere with the policy decision in this regard. The Government took a policy decision implementing Free Noon Meal Programme to the children studying in Government aided schools, Government schools and Panchayat Union schools etc., This being the policy decision taken by the Government considering the financial implications, the Court cannot extend the said benefit to the private schools, which all are self financed. In such policy decision, the jurisdiction of the courts are undoubtedly limited. The policy decision implemented by the Government by providing Free Noon Meal to the children studying in Government schools, Government aided schools



and Panchayat Union schools. Such being the factum, benefit cannot be extended by the Courts in respect of the self finance institutions. It is pertinent to note that the self finance schools are collecting substantial amount of fees from the children in respect of the charitable institutions, it is different. However, the Government has taken a policy decision in this regard. The relief, as such, sought for, cannot be granted and as far as the order impugned is concerned, the policy decision implemented by the Government by providing Free Noon Meal Scheme to the Government schools, Government Aided schools and Panchayat Union schools.

9. Under these circumstances, the petitioners have not established any acceptable grounds for the purpose of granting the relief as such sought for in these writ petitions. Accordingly, these Writ Petitions stand dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar (CS)

dss/vsg

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.

To

1. The Secretary,
Government of Tamilnadu,
Social Welfare and Nutritious,
Meal Programme Department,
Fort St. George,
Chennai-600 009.
2. The Director of Social Welfare
and Noon Meal Programme Department,
Chepauk, Old Engineering College Complex,
Chennai-600 005.

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



3.The District Collector,
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4.The Personal Assistant,
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Virudhunagar District,
Virudhunagar.

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

+1 CC to SGP (SR-22341, 22343[F] dated 20/11/2020)

+2 CC to M/s.G.M.LAW OFFICE, Advocate (SR-22220,22219[F] dated
20/11/2020)

W.P. (MD) .Nos.15718 & 13339 of 2014
and

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KG (CO)
KM (02.12.2020) 6P 9C