



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.21635 of 2015

and

M.P (MD)No.1 of 2015

WEB COPY

The Principal
SDA matriculation higher Secondary School,
Kovilpatti,
Thoothukudi District

... Petitioner

Vs.

1.The Director of Matriculation School,
Office of the Director of Matriculation Schools,
DPI Campus, College Road,
Chennai.

2.The Inspector of Matriculation Schools,
Office of the Inspector of Matriculation Schools,
IMS Office,
SSSN Government Boys Higher Secondary School,
Mallankinaru Salai,
Virudhunagar.

3.Stanley Joseph

4.The Secretary to Government,
School Education Department
Fort St. George,
Chennai - 9

5.The Secretary to the Government,
Higher Education Department,
Fort St. George,
Chennai - 9

... Respondents

*(This Court, *suo motu* impleaded R4 & R5)

(Vide Court Order dated 16.10.2020 made in WP(MD).21635 of 2015 and MP(MD).1 of 2015 by SMSJ)

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for all the original records pertaining to the impugned order No.Na.Ka.No.29/2015, dated 10.09.2015, passed by the 2nd respondent and quash the same as being void ab-initio, arbitrary and unreasonable.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Ms.S.Srimathy

(R1 & R2)

Spl.Govt.Pleader

**O R D E R**

The impugned order, dated 10.09.2015, passed by the Inspector of Matriculation School, reveals that the said order was passed pursuant to the directions issued by this Court, on 27.07.2015, in W.P.(MD)No.13058 of 2016. This Court directed the authorities to consider the representation. However, the impugned order is absolutely a non-speaking.

2. The petitioner is the Matriculation School. Thus, the Inspector of Matriculation Schools, while passing the order, should consider the merits and demerits of the case of the parties and thereafter, pass a speaking order, enabling the parties to redress their grievances before the appropriate authorities. Contrarily, the Inspector of Matriculation, passed a non-speaking order, without assigning any reasons or conclusions arrived.

3. Authorities Competent are bound to settle such disputes by passing a speaking order. The Non-speaking orders are passed in an evasive manner and such an exercise of power is to be deprecated. Any competent authority, while passing an order is expected to furnish reasons for arriving such a conclusion. The practice of passing a non-speaking order is to be viewed seriously. In this regard, the Government is also duty bound to issue suitable instructions / circular to all the competent decision making authorities to arrive a decision on merits and pass orders, by assigning reasons, and an evasive or non-speaking order cannot be passed, which would cause unnecessary issues between the parties and by filing unnecessary writ petition, the valuable judicial time is wasted.

4. Mostly, such matters are liable to be remanded back and such an unnecessary remand would cause hardship to the litigants. The time delay caused to the litigants are also to be considered by the competent authorities. This being the factum, large numbers of such orders are passed by many competent authorities, without assigning any reason and they are in the habit of shrieking their responsibilities. This Court is of the opinion that serious actions are to be initiated against all those authorities by the Government.

5. Exercise of powers either statutory or administrative by the authority means, the decision is to be taken by such authority with application of mind. The application of mind deserves that facts and counter facts placed by the respective parties are considered or adjudicated, as the case may be and an order is passed assigning the reasons for arriving such a conclusion. Thus, any non-speaking order passed by the authority is to be construed as an evasion of performance of the duties and responsibilities and the said action of the authorities are certainly a lapse, negligence or dereliction. Thus, the Head officials are duty bound to ensure that the power



vested with the competent authorities are exercised with application of mind and the orders are passed assigning reasons.

6. This being the principles to be followed, the Government has to issue necessary instructions to all the authorities so as to ensure that the disputes between the parties are resolved by passing speaking orders and by providing opportunities to the parties concerned. In this regard, it is necessary to implead the Secretary to Government School Education Department, Fort St.George, Chennai - 9, and the Secretary to the Government, Higher Education Department, Fort St. George, Chennai - 9, *suo motu*, for the purpose of issuing consolidated instructions to all the authorities across the State so as to ensure that the disputes between the schools, teachers and employees are resolved by passing reasoned orders and by affording opportunities to the parties to the dispute. The learned Special Government Pleader took notice for the impleaded respondents. The speaking order must contain the reasons for arriving the conclusion. If reasons are assigned, it would be beneficial to the parties to understand on what basis the decision is taken. This would be helpful in many ways to resolve the disputes in a proper manner.

7. As far as the present writ petition is concerned, the impugned order is absolutely non-speaking and therefore, the matter is remanded back to the second respondent to provide opportunities to the concerned parties and thereafter, take a decision and pass orders assigning reasons, for arriving such a conclusion.

8. Accordingly, the following orders are passed :-

(i) The impugned order passed by the 2nd respondent in proceedings Na.Ka.No.29/2015, dated 10.09.2015, is quashed.

(ii) The 2nd respondent is directed to consider the merits and pass a revised speaking order, in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

(iii) The respondents 4 and 5 are directed to issue consolidated instructions to all the subordinate authorities across the State of Tamil Nadu, so as to ensure the statutory appeals and disputed issues between the parties in the Education Department are decided by passing speaking orders and by assigning reasons for arriving the conclusion.

(iv) The consolidated instructions shall contain that in the event of lapse, negligence or dereliction in this regard appropriate disciplinary



who are responsible for passing such evasive and non-speaking orders .

9. The Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

Note :

The Registry is directed to communicate a copy of this order to the Secretary to Government, School Education Department, Fort.St.George, Chennai-9, and to the Secretary to the Government, Higher Education Department, Fort St. George, Chennai - 9.
+1 CC to M/s.SPL GP (SR-70460[F] dated 21/06/2019)

To

- 1.The Secretary to Government,
School Education Department
Fort St. George,
Chennai - 9.
- 2.The Secretary to the Government,
Higher Education Department,
Fort St. George,
Chennai - 9.
3. The Director of Matriculation School,
Office of the Director of Matriculation Schools,
DPI Campus, College Road,
Chennai.
- 4.The Inspector of Matriculation Schools,
Office of the Inspector of Matriculation Schools,
IMS Office,
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W.P. (MD)No.21635 of 2015
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CK (CO)

KB(27.11.2020) 4P 5C