



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.08.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD) No.15839 of 2018

and

W.M.P.(MD)No.14175 of 2019

1.M.Nagaraj
2.K.Bakiyaraj
3.P.Murugan
4.Krishna Murthy
5.Ganesan

... Petitioners

Vs.

1.The Union of India represented by
The Principal Secretary,
The Ministry of Human Resource Development,
Shastri Bhawan, Dr.Rajendra Prasad Road,
New Delhi.

2.The State of Tamil Nadu represeted by
The Principal Secretary,
Department of School Education,
Fort.St.George, Chennai.

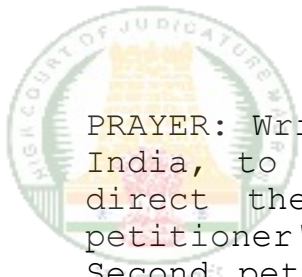
3.The Chief Nodal Officer/ Director of
Matriculation School,
O/o.The Director of Matriculation Schools,
College Road, DPI Compound,
Nungampakkam, Chennai.

4.The District Collector,
O/o.The District Collector,
Madurai District.

5.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Thallakulam, Madurai,
Madurai District.

6.Tagore Vidyalaya Matric School,
Represented by its Principal,
Vandiyur Main Road,
Madurai District - 625 020.

...Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to issue Writ of Mandamus, to direct the Respondents No.1 to 5 to take action to admit the petitioner's daughter by name N.Yoga Sri aged about 3½ years, the Second petitioner's daughter by name P.Nandhitha Sri aged about 3 years, the third petitioner's daughter by name in M.Nibitha aged about 3½ years the, fourth petitioner's son K.Mohitha aged about 3 years, the fifth petitioner's son G.lakshan aged about 3½ years in Respondent No.6 school under 25% reservation for the students belong to disadvantages group/weaker section categories under the Right of Children to Free and Compulsory Education Act, 2009.

For Petitioner : Mr.R.Alagumani
For R1 : Mr.R.Vijayarajan
For R2 to R5 : Mr.N.Shanmugaselvam,
Additional Government Pleader
For R6 : Mr.J.Alaguram Jothi

ORDER

This Writ Petition is filed seeking for a direction, to direct the respondents to admit the petitioners' children in the 6th respondent school under 25% reservation for the students belong to disadvantages group/weaker section categories under the Right of Children to Free and Compulsory Education Act, 2009.

2. The learned counsel for the petitioner submitted that the sixth respondent has not followed the procedure as contemplated under law for selection of students for the aforesaid category. In this regard, the petitioners sent their representations to the respondents 1 to 3. So far no steps has been taken, hence, this Writ Petition.

3. The learned Additional Government Pleader appearing for the respondents 1 to 3 and filed counter-affidavit. In the counter affidavit it is stated in paragraph Nos.6 and 7 as follows:

"6.It is submitted that before entertaining the applications for including them for the lot, the school authorities verified whether the application were from the distance of 1.k.m. as stated in rules. On enquiry from the school authorities it is understood that the distance from the school to the residence of the students seeking admissions were verified with reference to the Google map. The distance of the residence to the school on behalf of the sons and daughters was above 1.k.m. i.e., their residents were situated at a distance of 1.3.k.m for



petitioners 1, 2, 4 and 5 and the distance on behalf of petitioner No.3 was 1.5.k.m. Hence their cases cannot be treated as neighbourhood schooling. On receiving the communication from the petitioners, the 5th respondent has informed the petitioners in a letter dated 13.06.2018 made in Na.Ka.No.2341/AA3/2018 that the residence should have been within 1.k.m. From the school. It is for the petitioners to establish the correct distance from their residence and the school by proper evidences. It is pertinent to submit that the petitioners have include many other schools in which they did not seek any admission. As the rule of distance 1.k.m is not satisfied, the rejection of the applications is as per rules.

7. It is submitted that in respect of 25% reserved category, lots have been conducted in the presence of Revenue authorities, education departmental authorities and the parents. There is no rule by which the petitioner should be given notice of lots to be conducted. The procedure adopted by the respondents school cannot be said to be contrary to the rules and notification issued by the State Government. The random method can also mean drawal of lots as no other procedure has been contemplated. Even otherwise, since the concept of neighborhood rule has been pressed into service, the Act has not been made it clear what is the neighbourhood except stating the locating of the school under Section 6 by the local authority. If there are more than one school in the neighborhood, as to which school the child should be admitted is also not clear. It is suffice to state that the respondents school had adopted a transparent procedure in admitting the children more than 25% quota under Section 12(1)(c). The petitioner will have no case to question the admission procedure. The writ petition is not maintainable and is liable to be dismissed."

4. The learned counsel appearing for the sixth respondent also filed a counter-affidavit, wherein it is stated in paragraph No. 8 as follows:

"8. I submit that on receiving the objection from the petitioner the school authority have physically and by Google Map verified and confirmed the distance of the school from the residence of the petitioners and found that the distance is more than 1.3 kms in case petitioners 1, 2, 4 and 5 and 1.5 kms in case of 3rd petitioner. Accordingly as per the neighbourhood schooling policy the application of the petitioners have rightly been rejected, and has been published in the Notice Board. In fact the Respondent has no prejudice or priority over any of the



candidates applying under the act. In fact this respondent is very transparent in selecting the candidates under the act and has given utmost care and caution in selecting the candidates. It is further to be noted the selection process has duly been conducted under the proper Supervision and Guidance of the authorities appointed under the act. Hence the various allegations made against this respondent is highly unjustifiable and this writ petition is liable to be dismissed. It is further submitted that the school is run by the Management of the School to uplift the younger generation in the locality. There are no merits whatsoever in the allegations made in the writ petition."

5. Heard the learned counsel on either side and perused the materials placed on records.

6. In view of the counter-affidavit filed by the learned Additional Government Pleader, there is no case made out to interfere with the admission of the students under the Right of Children to Free and Compulsory Education Act, 2009 and in the counter-affidavit it is stated that as per the Rules, the residence should have been within 1. k.m., from the School, but the rule of distance has not been satisfied. Therefore, the application of the petitioners have been rightly rejected and there is no merit in the Writ Petition and the same is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

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Sub Assistant Registrar(CS)

das

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

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Madurai District.
 - 5.The Chief Educational Officer,
O/o.The Chief Educational Officer,
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- +1 CC to Mr.R. VIJAYARAJAN, Advocate (SR-14353[F] dated
18/08/2020)

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VB (02.09.2020) 5P 7C