



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

and

THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.188 of 2020

and C.M.P.No. 2819 of 2020

1.General Manager

Southern Railway,
O/o.The General Manager,
Southern Railway,
Chennai - 600 003.

2.The Correspondent,

Railway Mixed High School/Villupuram,
Being the Divisional Personnel Officer,
O/o.The Divisional Railway Manager,
Tiruchirappalli Division,
Southern Railway,
Tiruchirappalli.

3.The Head Master,

Railway Mixed High School/Villupuram,
North Colony, Villupuram Junction,
Villupuram - 605 602.

.. Appellants

Vs

1.A.Elumalai

2.P.Armstrong Issac

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 31.10.2019 made in W.P.No.26951 of 2019.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents to forbear from taking any action to close down the 3rd respondent Railway Mixed High School at Villupuram and consequently permit the students such as the petitioner's



children viz. E.Anusuya of Std. IX and A.Roopaa of Standard VIII to complete their curriculum upto the X standard viz. S.S.L.C Examinations.

For Appellants : Mr.Radhakrishnan, Sr. Counsel
for Mr.P.T.Ramkumar

For Respondents : Mr.K.Govi Ganesan R2

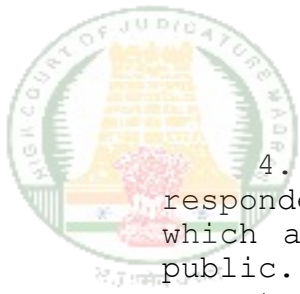
JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred against the order of the learned Single Judge, who upon hearing the parties, granted relief directing the appellants not to close the school till the wards of the respondents and the other students complete their studies up to X standard in the Railway Mixed High School, Villupuram. Incidentally, a further direction has been issued not to deny admission to any student.

2. Learned Senior Counsel appearing for the appellants submitted that the school was started nearly a century ago at the point of time, where there was no other educational institution available to the wards of the railway employees at Villupuram. At present, there are five other schools available within 500 meters of the existing school which is inclusive of three Government Schools.

3. Learned Senior Counsel further submitted that the norms as fixed under the Right of Children to Free and Compulsory Education Act, 2009 could not be reached for want of adequate students. However, the staff and faculty will have to be paid leading to huge expenditure in running the school notwithstanding inadequate students. The Head Master of the school alone is being paid Rs.1,20,000/- per month. Therefore, there is huge revenue loss in running the school. The decision to close the school is a policy decision and the respondents would not have any vested right. There are only few wards of the railway employees at present studying in the school. Of the two writ petitioners/respondents, ward of the first respondent has already completed the school and the second respondent is not an employee. The writ petition has been filed on an extraneous reasons. There is neither any public interest nor any personal interest involved.



4. Mr.K.Govi Ganesan, learned counsel appearing for the respondents submitted that there is no need to close the school which affects the interests of the respondents and that of the public. Admissions are not being made. The question of loss cannot be put against running of the school. The learned Single Judge has taken note of the above said facts while allowing the writ petition and, therefore, no interference is required.

5. The factual averments made on behalf of the appellants are not denied and in any case, we do not find any contra material to dispute the same. Admittedly, the appellants are incurring huge loss and there is lack of adequate strength of students. Learned Senior Counsel submitted that as on today the school is running with only 18 students and the faculty and the staff strength exceeds the students studying. A huge amount of revenue is being spent though there is insufficient student strength. There are many number of schools available in the nearby area. A conscious decision has been taken to close the school to avoid further loss. This was also based upon the audit report of the Principal Director of Audit. The object of starting the school a century ago was to facilitate the wards of the railway employees who would be on transfer otherwise. Now, much water has flown under the bridge. The ward of the first respondent, who is an employee, has passed out and the second respondent was not an employee. It is not the case of the respondents that the other schools could not accommodate the students. There is also an option available to the employees of the Railways to avail educational facilities for the children in schools run by other agencies. Pursuant to the policy decision, another school in Villupuram was already closed.

6. As the decision taken was an administrative one pursuant to the policy evolved, we do not find any arbitrariness involved. The writ petition has been filed not as a public interest litigation but to protect the interest of the wards of the respondents. As stated, there are sufficient schools within the vicinity and for the employees of the railways, financial support is available to avail educational facilities even in the schools run by the other agencies.

7. Running the school with mere 18 students would certainly be against the public interest. Because of the school being run by the orders of this Court, more than a crore is being spent on the students. Now, these teachers and other staff members can be sent to other schools and given alternative employment as stated by the learned Senior Counsel.



8. In such view of the matter, we are of the view that the learned Single Judge is not correct in passing the order under challenge. In our considered view, the learned Single Judge has not taken into consideration all the relevant materials. Instead of going by the sentiments, one has to test the decision made in the light of the facts placed before the Court and not on the general principle. In such view of the matter, we are inclined to set aside the order passed. Accordingly, the order passed by the learned Single Judge stands set aside.

9. Accordingly, the writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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Villupuram - 605 602.

+1cc to M/s.K.Govi Ganesan, Advocate, Sr.No.27942.

+1cc to Mr.P.T. Ram Kumar, Advocate, Sr.No.27892.

W.A.No.188 of 2020

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NSK 20/07/2021