

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6911 of 2021
and W.M.P.Nos.7467 & 7468 of 2021

N.Dhanabalan

... Petitioner

-vs-

1.The Director of Elementary Education,
Chennai-600 006.

2.The District Educational Officer,
Erode.

3.The Block Educational Officer,
Erode.

4.Rajalakshmi,
Block Educational Officer,
Erode.

... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus to call for the records relating to the order of the second respondent in Pro.Na.Ka.No.3509/B1/2020, dated 16.10.2020, quash the same and to issue consequential directions to the respondents to permit the petitioner to continue to run the school as before and to retain the Headmaster and the Secondary Grade Teacher in the petitioner School.

For Petitioner : Mr.M.Ravi

For Respondents : M.P.Raja,
Government Advocate

O R D E R

The petitioner has filed this writ petition seeking to quash the order of the second respondent in Pro.Na.Ka.No.3509/B1/2020, dated 16.10.2020, and issue consequential directions to the respondents to permit the petitioner to continue to run the school as before and to retain the Headmaster and the Secondary Grade Teacher in the petitioner School.

2. Mr.P.Raja, learned Government Advocate, takes notice for R1 to R3. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the petitioner, the petitioner is running a recognized Government Aided School from 01.01.1971. From the Academic Year 2011-12 onwards (02.06.2011), the petitioner-school has been functioning at Karuppaswami Koil Street, Sastri Nagar, Erode. Respondents 3 and 4 inspected the petitioner-school and called upon them to submit certificates. Later, on 21.09.2020, respondents 3 and 4 sent a report to the second respondent and by way of another Report dated 24.09.2020, the said respondents 3 and 4 sought to take action to transfer the 12 students studying in the petitioner-school permanently as the petitioner school had not submitted required certificates and also to transfer the Headmaster and Secondary Grade Teacher to some other school. As no permission has been obtained to run the school in the present place from 02.06.2011 under Rule 12 of RTE Rules, 2011, the second respondent by an order dated 16.10.2020, recommended for permanent closure of the petitioner-school and to transfer the Headmaster and the Secondary Grade Teacher to other Government Aided School at Erode. By communication dated 10.11.2020, the Director of National Commission for Scheduled Castes, Chennai, requested the first respondent to revoke the closure order. Challenging the impugned order dated 16.10.2020, the petitioner has filed an appeal before the first respondent and the same is pending consideration. Since the said appeal did not evoke any response, the petitioner is before this Court.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's appeal dated 10.03.2021 is already pending with the 1st respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the appeal dated 10.03.2021 preferred by the petitioner, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time, take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the appeal dated 10.03.2021 and a copy of this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the appeal, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS VII)

/TRUE COPY/

Sub-Assistant Registrar

raa

To

1.The Director of Elementary Education,
Chennai-600 006.

2.The District Educational Officer,
Erode.

3.The Block Educational Officer,
Erode.

+1CC TO MR.M.RAVI, ADVOCATE, SR.NO. 20111

+1CC TO M/S.GOVERNMENT PLEADER, SR.NO. 19955

W.P.No.6911 of 2021

PMK (CO)

KKN 27.04.2021