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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.24759 & 25071 of 2012

and

M.P.Nos.1, 2, 2 of 2012, 1 & 1 of 2013

W.P.No.24759 of 2012

R.Jayakumar

...Petitioner

Vs

1.The State of Tamilnadu,
Rep.by the Secretary to the Government,
School Education Department,
Fort St.George, Chennai - 40.

2.The Director of School Education,
College Road, Chennai - 6.

3.The Chief Educational Officer,
Nagapattinam District,
Nagapattinam.

4.The District Educational Officer,
Mayiladuthurai,
Nagapattinam District.

5.V.Sridharan Nadar

6.M.Rathnasamy Nadar

7.S.Thavasimuthu Nadar

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the G.O.Ms.No.196 School Education (D1) Department dated 27.07.2012 on the file of the 1st respondent, quash the same and permit 1) R.Jayakumar, the petitioner herein 2) M.Rathinasamy Nadar and 3) S.Thavasimuthu Nadar to form a Educational agency to administer Thavasimuthu Nadar Higher Secondary School, Poriyar, Nagapattinam District.



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For Petitioner : Mr.S.Packiaraj

For Respondents: Mr.C.Selvaraj
Additional Government Pleader
[For R1 to R4]

M/s.Vedavalli Kumar
[For R5]

M/s.Elizabeth Ravi
For Mr.P.Raja
[For R6]

W.P.No.25071 of 2012

S.Thavasumuthu

...Petitioner

Vs

1.The State of Tamilnadu,
Rep.by the Secretary to the Government,
School Education Department,
Fort St.George, Chennai - 600 009.

2.Director of School Education,
College Road, Chennai - 600 006.

3.The Chief Educational Officer,
Nagapattinam.

4.The District Educational Officer,
Mayiladuthurai,

5.V.Sridharan Nadar

6.M.Rathinasamy Nadar

(R5 & R6 impleaded as per order
dated 26.11.2012 in M.P.Nos.3 & 4 of 2012
in W.P.No.25071 of 2012)

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O. (RT).No.196, Education (D1) Department, dated 27.07.2012 and quash the same and for a consequential direction to recognize the educational agency duly constituted.



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For Petitioner : Mr.G.Mutharasu

For Respondents : Mr.C.Selvaraj
Additional Government Pleader
[For R1 to R4]

M/s.Vedavalli Kumar
[For R5]

M/s.Elizabeth Ravi
For Mr.P.Raja
[For R6]

COMMON ORDER

Since the relief sought for in both the writ petitions are one and the same and hence both the writ petitions are being disposed of by this common order.

2. The order impugned passed by the first respondent in G.O.Ms.No.196, School Education Department (D1) dated 27.07.2012 is under challenge in the present writ petitions.

3. The petitioners state that dispute regarding the Management of the School Administration was resolved through various Civil Court proceedings. The School was established by the forefathers of the petitioners in the year 1882 in the name and style of Thavasimuthu Nadar Higher Secondary School, Porayar.

4. The learned counsel for the petitioners reiterated that the dispute between the family members were already resolved through the Civil Court of law and as of now, no civil proceedings are pending before any Civil Court. Even on earlier occasion, one Mr.S.Thavasaimuthu Nadar filed W.P.No.11866/2006 and this Court passed an order, directing the first respondent to consider the Civil Court Decrees passed and take an appropriate decision on merits and in accordance with law. Even after the order passed by this Court, the first respondent has failed to consider the Civil Court Decrees produced by the parties and once again passed impugned order, allowing the Special Officer to continue and thereby not considered the ground that the dispute between the parties have already resolved.



5. The learned counsel for the petitioners reiterated that the Government has got powers to appoint a Special Officer in the event of any Management dispute. Rightly, the parties approached the Civil Court and the Civil Court also disposed of the cases and as of now, no Civil Court proceedings are pending. Thus, the Government has to pass orders based on the Civil Court Decree and accepting the appointment of the writ petitioner as Secretary, which was made during the year 2004.

6. The learned counsel appearing on behalf of the respondents 5 to 7 brought to the notice of this Court that the respondents 5 and 6 are died. Therefore, their legal heirs are also entitled to participate in the Management dispute and under these circumstances, an enquiry is to be conducted for the purpose of initiating further actions pursuant to the orders passed by the Government in G.O.Ms.No.196 dated 27.07.2012.

7. Perusal of the order impugned reveals that the Government has taken note of all the Civil Court Decrees and the orders passed by the High Court were also considered by the Government. On the basis of the orders, the Government has conducted a personal enquiry and the officials have conducted a personal enquiry with the family members of the petitioners including the respondents 5, 6 and 7 and the other family members, whose names are found in the impugned order. During the discussion / enquiry, the competent authorities of the Education Department found that there was no consensus and in the absence of consensus and by considering the interest of the School administration as well as the students studying in the School, the Government has taken a decision to continue the Special officer.

8. When the Government has appointed a Special Officer based on the complaint regarding the family dispute in School Management, and the family members approached the Civil Court and thereafter, a personal hearing was given to the members of the family and even during that discussion before the competent authorities, the Government found that there was no consensus. Under those circumstances, the Government thought fit to consider the public interest as 1300 Students were studying in the said School and it is a Higher Secondary School.

9. This Court is of the considered opinion that the interest of the School administration and the plight of the Students are of paramount importance. When 1300 Students were studied during the relevant point of time, then the Government is right in



conducting an enquiry for the purpose of running the School Administration. The orders passed taking into consideration the public interest, cannot be ordinarily found fault with. Therefore, the Government has adopted a procedure by conducting an enquiry/administration with the family members of the society and found that there was no consensus and under those circumstances, a decision was taken to continue the Special Officer.

10. The writ petitions were filed in the year 2012, challenging the Government order passed in G.O.Ms.No.196 dated 27.07.2012. Now it is brought to the notice of this Court that the respondents 5 and 6 died and their legal heirs are also acquire right in respect of the Management. Under these circumstances, the respondents 1 to 4 are bound to conduct discussions / enquiry with the family members along with the legal heirs of the respondents 5 and 6 and take a decision on merits and in accordance with law. However, the interest of the Students can never be compromised and at no circumstances, the education of this children must be continued without any hindrance or obstruction in the School administration. This being the prime consideration to be deliberated by this Court, the respondents are directed to convene a meeting with the family members including the legal heirs of the respondents 5 and 6 and take a decision on merits and in accordance with law. The said exercise is directed to be done as expeditiously as possible.

11. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

- 1.The Secretary to the Government,
School Education Department,
Fort St.George, Chennai - 40.
- 2.The Director of School Education,
College Road, Chennai - 6.



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3.The Chief Educational Officer,
Nagapattinam District,
Nagapattinam.

4.The District Educational Officer,
Mayiladuthurai,
Nagapattinam District.

+2cc to Mr.Elizabeth Ravi, Advocate Sr.59895

+1cc to Mr.Muthupandi, Advocate Sr.60099

+1cc to the Government Pleader Sr.60291

W.P.Nos.24759 & 25071 of 2012

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