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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.5150 OF 2019

AND

W.M.P.NOS.5859 & 5863 OF 2019

The Society of Sisters of Maria Auxilium,
Represented by its Secretary,
SMA Generalate, Thapalpettu,
M.M.C. Road,
Chennai - 600 060.

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
3. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.
4. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.

... Respondents

W.P.NO.5170 OF 2019

AND

W.M.P.NOS.5880 & 5882 OF 2019

The Society of Brothers of St. Patrick,
Tamil Nadu-Society No.5,
Represented by its Secretary
St. Patrick's Academy,
Kalanampatty Post,
Dindigul - 624 710,
Dindigul District.

... Petitioner



.Vs.

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Director of Matriculation Schools,
DPI Campus,
College Road,
Chennai - 600 006.

... Respondents

W.P.NO.5165 OF 2019
AND
W.M.P.NOS.5873 & 5875 OF 2019

Brothers of Holy Cross
Represented by its Secretary,
3-639, St. Joseph's House,
K.N.Colony,
Holy Cross School Campus,
Ammamet, Salem - 636 014.

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Director of Matriculation Schools,
DPI Campus,
College Road,
Chennai - 600 006.

... Respondents



W.P.NO.5356 OF 2019
AND
W.M.P.NOS.6080 & 6083 OF 2019

The Institute of the Marist Brothers of the Schools,
Represented by its President,
Marist Brothers,
Mela Street,
Uyyakkondan Thirumalai,
Tiruchirapalli - 620 102,
Trichy District.

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
3. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
4. The Joint Director (Higher Secondary),
DPI Campus, College Road,
Chennai - 600 006.

... Respondents

W.P.NO.5159 OF 2019
AND
W.M.P.NOS.5868 & 5871 OF 2019

The Coimbatore Diocese Society,
Represented by its Treasurer,
Bishop's House,
Coimbatore - 625 001,
Coimbatore District.

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.



2. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
3. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.
4. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
5. The Joint Director (Higher Secondary),
DPI Campus, College Road,
Chennai - 600 006.

... Respondents

PRAYER IN W.P.NOS.5150, 5165, 5356 & 5159 OF 2019:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records, pertaining to the impugned G.O.(Ms.) No.65, School Education (MS) Department, dated 05.04.2018, on the file of the 1st Respondent, in respect of the member Educational institutions of the petitioner society as mentioned in the Annexure in the above Writ Petition and quash the same.

PRAYER in W.P.NO.5170 of 2019

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records, pertaining to the impugned G.O.(Ms.) No.65, School Education (MS) Department, dated 05.04.2018, on the file of the 1st Respondent, in respect of St.Patrick's Academy Matriculation Higher Secondary School, Patrick Nagar, Kalanampatty Post, Dindigul-624 710, Dindigul District, the member Educational Institution of the petitioner society and quash the same.

For Petitioner : Mr.Father Xavier Arulraj
Senior Counsel (in all Wps)

For Respondents : Ms.P.Kavitha
Government Advocate (Education)
For R1 (in all Wps)

Mr.M.R.Gokulakrishnan
Government Advocate
For R2 to R4 (in all Wps)



COMMON ORDER

The above Writ Petitions are filed challenging the impugned G.O (Ms) No.65, School Education (MS) Department dated 05.04.2018, on the file of the 1st Respondent and quash the same.

2. It is the case of the petitioners that minority Educational Institutions are Governed by the the Decision in TMA Pai Foundation case, as reported in (2002) 8 SCC 481. Based on the said decisions, time and again various Government Orders have been issued framing certain Guidelines for the said Institutions. Vide G.O (Ms) No.65, School Education Department dated 05.04.2018, certain additional guidelines were framed for grant of Minority Status to the Educational Institutions in and by the said G.O, the minority institutions were directed to admit not less than 50% of the students. The said G.O was put to challenge before this Court in W.P.No.23789 of 2018 etc batch and this Court vide its order dated 30.01.2019 had quashed the said G.O. It is the case of the petitioner that the petitioners institutions are also similarly placed and accordingly, the benefit of the said order are also to be extended to the petitioner. Hence the present Writ Petition is filed.

3. Learned Government Advocate appearing for the respondents submits that as against the said order passed in W.P.No.23789 of 2018, the state has preferred appeal before the Division Bench in W.A.No.3309 of 2019 and same has been admitted for hearing.

4. Learned Counsel for the petitioner submits that no Interim Orders have been granted in the said Appeal and therefore as on date the order passed in W.P.No.23789 of 2018 etc., batch is to be followed.

5. Learned Government Advocate fairly concedes that no Interim Order has been passed in the W.A.No.3309 of 2019.

6. In view of the above, the issue already having been decided, these Writ Petitions are allowed in terms of the order passed in W.P.No.23789 of 2018 which decision would always be subject to the orders that may be passed in W.A.No.3309 of 2019.



7. Accordingly, these Writ Petitions are allowed with the aforesaid directions. Consequently, the connected Miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

NHS

To

1. The Government of Tamil Nadu,
Represented by the Principal Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road,
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4. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
5. The Joint Director (Higher Secondary),
DPI Campus, College Road,
Chennai - 600 006.

+5ccs to M/s.Father Xavier Associates, Advocate, S.R.No.59069
+1cc to the Government Pleader, S.R.No.58992

W.P.NOS.5150 5170,5165,5356 &
5159 OF 2019 AND W.M.P.NOS.5859,
5863, 5880, 5882, 5873, 5875,
5868, 5871,6080 & 6083 OF 2019

JP-II(CO)
PBS/24/01/2022