

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7299 of 2021

The Tamil Nadu Nursery, Primary,
Matriculation Higher Secondary Schools Association,
rep. by its State Secretary K.R.Nandakumar,
S/o.K.Ramachandran,
Having Office at No.6, Egambaram Street,
Pammal, Chennai - 600 075.

.. Petitioner

Vs.

1.The Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

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

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Certiorarified Mandamus to call for the records of the first respondent made in G.O.Ms.No.48 School Education (G.E.) Department, dated 25.2.2021 and quash the same and consequently direct the respondents to permit the individual private, aided and unaided schools in the State of Tamil Nadu under the control of the Education Department to individually assess the capacity and merit of the students studying in Classes 9 to 11 in their respective schools to finally take a decision on promoting the students to the next higher class for the academic year 2021-2022.

For Petitioner : Mr.Silambanan
Senior Counsel
for M/s.Kaavya Silambanan
Associates

For Respondents : Mr.C.Munuswamy
Spl. Government Pleader

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The challenge in the writ petition is by an association of teachers, questioning the propriety of the State Government doing away with examinations in classes 9, 10 and 11 and declaring every candidate to have passed the relevant class. The move came in the wake of the pandemic.

2. According to the petitioning association, there does not appear to be any basis for the decision as the impugned G.O.Ms.No.48 issued by the School Education (G.E.) Department on February 25, 2021 merely indicates that since a statement to such effect had been made by the Chief Minister of the State, the notification had been issued. The other ground canvassed by the association is that at the end of class 10, students select specialised subjects and decide on the streams that they would pursue. However, without their aptitude in the subjects of their ultimate choice being tested, neither the students nor the teachers can assess the ability of the relevant student to pursue the stream of choice. It is also submitted that parents cannot counsel their children in the absence of any yardstick by way of examination marks being available.

3. Merely because the relevant government order of February 25, 2021 refers to the Chief Minister's speech does not imply that deliberations and considerations did not go into the making of the decision or that the remark was an off-the-cuff statement by the Chief Minister which has been slavishly accepted and implemented by the relevant department. When the executive takes a decision, the presumption is that it has been done in public interest and upon due deliberation. Notwithstanding the attack to the relevant government order on such ground, it cannot be accepted that such a decision was taken without any deliberation or discussion on the matter.

4. The second aspect of the grievance is easily taken care of. Even though the process of examination has been done away with for students of classes 9, 10 and 11 getting automatic promotion to the next class, when it comes to the choice of the

students for the specialised streams at the end of class 10, nothing in the government order stops individual schools from taking such measures as may be necessary to test the aptitude of the students and the desirability of offering to them the courses they choose. The individual schools may, in addition to assessing the past records of the students in respect of the relevant subjects, conduct some form of aptitude test, whether online or physically, if physical classes resume by then, before the choice of stream is offered to the students. The second aspect of the matter does not appear to be covered or pronounced upon by the impugned notification.

5. Since it is the choice of stream which appears to be the primary concern of the teaching association which has filed the petition, W.P.No.7299 of 2021 is disposed of by leaving individual schools free to devise any appropriate form of assessment to ascertain the aptitude or desirability of particular students being allowed the subjects or streams of their choice at the plus-two level. The relevant department of the State Government may also think of issuing guidelines on such aspect of the matter, if deemed fit.

Consequently, W.M.P.Nos.7803, 7806 and 7809 of 2021 are closed. There will be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1.The Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

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

+1cc to M/s.Kaavya Silambanan, Advocate SR.18144
+1cc to the Government Pleader SR.18419, 18619

W.P.No.7299 of 2021

PM(CO)
CB(31/03/2021)