



W.P.No.10208 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10208 of 2019

All India Private Educational Institutions Association
rep.by its State General Secretary K.Palaniyappan
No.5, M.P.Avenue, Majestic Colony,
Saligramam, Chennai 600 093.

... Petitioner

Vs.

1.The Secretary,
School Education Department,
Fort St.George, Chennai 9.

2.The Director,
The Directorate of School Education,
DPI Campus, Chennai.

3.The Chairperson,
Central Board of Secondary Education,
Shiksha Kendra, No.2 Community Centre,
Preeth Vikar, Delhi 92.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus To call for the records of the Impugned Notice issued by the 2nd respondent vide Na.Ka.No. 13774/ G1/ E4/ 2018 dated 21.12.2018 and quash the same as illegal and unconstitutional and consequently directing the respondents to permit commencement of parallel CBSE institution within in the same campus which has been recognized



W.P.No.10208 of 2019

under the Tamil Nadu recognized Private School (Regulation) Rules 1974 and also under Code of Regulation for Matriculation Schools Tamil Nadu in cases where the institution satisfy both the norms and regulation prescribed under the Tamil Nadu recognized Private School (Regulation) Rules 1974, the Code of Regulation for Matriculation Schools and also the regulations framed for Central Board of School Education (CBSE) Board.

For Petitioner : Mr.R.Suresh Kumar for Mr.E.Vijay Anand
For RR1 and 2 : Mr.U.Baranidharan
Additional Government Pleader for R1 & R2

For RR3 : Mr. G.Nagarajan

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the Impugned Notice issued by the 2nd respondent vide Na.Ka.No. 13774/ G1/ E4/ 2018, dated 21.12.2018 and quash the same as illegal and unconstitutional and consequently direct the respondents to permit commencement of parallel CBSE institution within in the same campus which has been recognized under the Tamil Nadu recognized Private School (Regulation) Rules, 1974 and also under Code of Regulation for Matriculation Schools, Tamil Nadu in cases where the institution satisfy both the norms and regulation



W.P.No.10208 of 2019

prescribed under the Tamil Nadu recognized Private School (Regulation)

WEB C

Rules 1974, the Code of Regulation for Matriculation Schools and also the regulations framed for Central Board of School Education (CBSE) Board.

2. The case of the petitioner is that the petitioner is the State General Secretary of the All India Private Educational Institutions Association and the petitioner association is a registered body taking up common cause regarding the betterment of education. Since there are great demand of CBSC School institution by the parents, the petitioner made representation dated 06.02.2018 to the respondents for starting of parallel Central Board of School Education (CBSC) Institution within the same school premises recognized under State Board. According to the provisions under the Tamil Nadu Recognized Private School (Regulation) Rules, 1974 and the code of Regulation for Matriculation Schools, Tamil Nadu, there is no specific bar to commence CBSE institution within the same campus which was recognized by the respondents also and hence nothing prohibits the institution from commencing two board classes within the same campus. Though the said provision was available, no steps were taken on the representation submitted by the petitioner. Therefore, the petitioner, on an earlier occasion, filed a



W.P.No.10208 of 2019

Writ of Mandamus in W.P.No.4178 of 2018 to dispose of the petitioner's representation dated 06.02.2018 and to clarify the issue regarding commencement of parallel CBSE institution within the same campus and this Court by order dated 09.04.2018, directed the respondents to consider the said representation of the petitioner. However, the respondents after receipt of the order copy, called upon the petitioner Association to give a detailed representation, thereupon, by impugned proceedings dated 21.12.2018. had rejected the petitioner request without any valid reasons. Challenging the said rejection order, the present petition has been filed.

3.The learned counsel appearing for the petitioner submitted that as per Rule 9 of the Tamil Nadu Recognized Private School (Regulation) Rules, 1974, there is no bar in commencing parallel CBSE institution within the same campus, but the institution should satisfy the infrastructure and other requirements like staff, stability, fire certificate etc., which have to be satisfied along with the Code of Regulations for Matriculation Schools in Tamil Nadu and further the petitioner came to understand that the State Government has passed an order that an institution can start a parallel CBSE institution in line with the above Rules, but the Government Order in



W.P.No.10208 of 2019

that regard was not available. Further the learned counsel submitted that there are difficulties in running the Schools under the State Board due to poor admission, as people prefer CBSE over the State Board and the parents also urging the schools to convert them into CBSE institution. Therefore, the respondents without considering the above aspects and without application of mind, has rejected the petitioner's representation vide impugned proceedings dated 21.12.2018 and hence prays for appropriate order of this Court.

4. The learned Standing Counsel appearing for the 3rd respondent has drawn the attention of this Court to the counter affidavit filed on behalf of the 3rd respondent and submitted that if any School Management intended to have CBSE Syllabus, CBSE Boards Affiliation has to be obtained from the 3rd respondent CBSE Board at New Delhi and once affiliation is granted to the School, the School is governed by the provisions of the CBSE Boards Affiliation Byelaw and every school is bound to follow the affiliation Bye laws of the Board mutatis mutandis and in particular, Affiliation Bye Law rule 2.4.13 says '*Dual Affiliation- A school affiliated with the Board is not allowed to have dual affiliation (i.e) simultaneous affiliation with two*



W.P.No.10208 of 2019

boards with the same set of infrastructure and land'. In case, the affiliation has been granted under switch over category, the school is required to withdraw its students from the classes of the Board to which it was earlier affiliated, in a phased manner and therefore, the question of permitting commencement of parallel CBSE institution in the same campus does not arise and prays for dismissal of this petition.

5. The learned Government Advocate appearing for the respondents 1 and 2 has reiterated the averments made in the counter affidavit filed on behalf of the 3rd respondent and further made a submission that it is evident that CBSE bye laws prohibits functioning of any other institution affiliated to different Boards functioning in the same campus. Further different Boards would have different syllabus and curriculum and it would dilute the quality of academic standards and furthermore, switching the students from one board to another board in the middle academic period may make them to face difficulties while appearing for public examinations. Government is framing rules / regulations from time to time to safeguard the educational interest of students and it is the duty of the Government to provide quality education to all sections of society and in the process, it is the primary duty



W.P.No.10208 of 2019

of Government to curb the menace of commercialization of education and therefore, there may not be any error on the part of the respondents in passing the impugned order and prays for dismissal of this petition.

6. This Court has carefully considered the rival submissions and also perused the materials available on record.

7. The present issue is regarding commencement of parallel Central Board of School Education (CBSE) Board Institution within the same campus. Though the petitioner claims that there is no specific bar to commence CBSE institution within the same campus which was recognized by the respondents, a perusal of the counter affidavits filed by the respondents, it is evident that the Schools seeking affiliation with the Board should submit formal prior 'No objection certificate' to the effect that State Government has no objection to the affiliation of the school with CBSE and from the materials placed, it is seen that the petitioner has not obtained any such certificate from the Board concerned. Further the Government also constituted a committee to look into the said issue and the said Committee had suggested several measures to be implemented to ensure safety and



W.P.No.10208 of 2019

educational interest of students. The Government accepted the recommendations and issue G.O.Ms.No.131, School Education Department, dated 10.08.2006 and in one of the recommendation, it was suggested that 'there should be only one school in the premises'.

8. In view of the above, this Court, after taking into all the material facts, is of the considered view that when the petitioner desired to establish a school affiliated to CBSE, he ought to have obtained NOC from the respective Board, where the existing school is functioning by bringing to their knowledge that the school is having excess infrastructure facilities over and above the norms fixed. Having not done so, the petitioner has no right to seek affiliation to establish a school under CBSE Board, contrary to the existing rules / regulations framed by the Government from time to time. Therefore, the first respondent, after considering all aspects, has rightly passed the impugned order and hence, it does not warrant interference.

9. For the reasons aforesaid, this Writ Petition is dismissed. No costs.



WEB COPY



W.P.No.10208 of 2019

30.11.2021

sk

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

- 1.The Secretary,
School Education Department,
Fort St.George, Chennai 9.
- 2.The Director,
The Directorate of School Education,
DPI Campus, Chennai.
- 3.The Chairperson,
Central Board of Secondary Education,
Shiksha Kendra, No.2 Community Centre,
Preeth Vikar, Delhi 92.



WEB COPY



W.P.No.10208 of 2019

M.DHANDAPANI,J.
sk

W.P.No.10208 of 2019

30.11.2021