

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 17.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A. No.443 of 2017 and
C.M.P. No.6697 of 2017

The Secretary,
Ambalavanar Araporuppu Ayam,
Walajabad, Kancheepuram District. ... Appellant/5th Respondent

versus

1.K.Thirunavakarasu Mudaliar ...1st Respondent/Petitioner

2.Government of Tamil Nadu,
rep. by the Secretary to Government,
School Education Department,
Secretariat, Chennai.

3.The Director of School Education,
Chennai-600 006.

4.The Chief Educational Officer,
Kancheepuram.

5.The District Educational Officer,
Kancheepuram. ...2 to 5 Respondents/1 to 4 Respondents

6.The Joint Director of School Education
(Higher Secondary),
D.P.I. Compound, Nungambakkam,
Chennai-600 006.6th Respondent

(R6 impleaded vide Court order dated 08.04.2019 made in C.M.P.
No.3331 of 2018 by TSSJ & VBSJ in W.A. No.443 of 2017)

Prayer: Appeal filed under Clause 15 of the Letters Patent to
set aside the order dated 05.01.2017 made in W.P. No.43853 of
2016.

Prayer in W.P.No.43853 of 2016:

Petition filed under Article 226 of the constitution of India for issuance of a writ of Mandamus to direct the respondents 2 to 4 to take immediate steps to include the petitioner or other member of the Founders Family to the Trust Board of the Trust and School Committee in the light of the order dated 08.02.2016 of the Honourable Supreme Court of India in SLP(C) No.13055/2012 in C.A.No.968/2016 and by considering the petitioner representation dated 22.09.2016.

For Appellant : Mr.P.Ebenezer Paul

For Respondents: Mr.C.B.Muralikrishnan for R1
Mr.K.Magesh (Edn.),
Special Government Pleader
for R2 to R6

JUDGMENT

(Judgment of this Court was delivered by T.RAJA,J.)

This writ appeal has been filed against the order dated 05.01.2017 made in W.P. No.43853 of 2016.

2.Assailing the impugned order, learned counsel appearing for the appellant submitted that when the above writ petition was filed by the first respondent seeking a direction to respondents 2 to 4 therein to take immediate steps to include him or other member of the Founders Family to the Trust Board of the Trust and School Committee in the light of the order dated 08.02.2016 passed by the Hon'ble Apex Court in S.L.P. (C) No.13055 of 2012 in C.A. No.968 of 2016 by considering his representation dated 22.09.2016, the same was disposed of directing the second respondent/the Director of School Education, Chennai to consider his representation dated 22.09.2016, after giving notice to all the parties including the writ petitioner's sister and the fifth respondent/the appellant herein. When a similar representation given by the sister of the writ petitioner, was already rejected vide impugned Proceedings dated 23.08.2016 by the Joint Director of School Education/sixth respondent herein on the basis of the order dated 08.02.2016 passed by the Hon'ble Apex Court in Civil Appeal No.968 of 2016 in Special Leave Petition (C) No.13055 of 2012, suppressing the above facts, the above writ petition was moved as if there was no order passed by the respondents.

3.In support of his submission, learned counsel for the appellant, drawing our notice to the Proceedings dated

23.08.2016 passed by the Joint Director of School Education, Higher Secondary, submitted that when the Joint Director of School Education, who is the competent authority, had already rejected the representation dated 03.06.2011 given by Renuka/sister of the writ petitioner, yet another direction obtained by the writ petitioner to consider his representation dated 22.09.2016 by the Director of School Education is unjustified and impermissible in law in as much as the Joint Director of School Education alone is the competent authority who had already passed an order. Learned counsel for the appellant further contended that when the sister of the writ petitioner filed W.P. No.17527 of 2011 seeking an order to grant approval of the School Committee for the period from 06.03.2011 to 05.03.2014, this Court, allowing the said writ petition by order dated 19.03.2012, setting aside the order dated 04.07.2011 passed by the District Educational Officer, Kancheepuram, remitted back the matter to the District Educational Officer, Kancheepuram to re-consider the matter after taking into account the representation given by the sister of the writ petitioner. Aggrieved thereby, the appellant filed W.A. No.794 of 2012 and the same was dismissed as infructuous by judgment dated 03.11.2014. Pursuant to the same, when Civil Appeal No.968 of 2016 in Special Leave (C) No.13055 of 2012 was filed by the appellant, the Hon'ble Apex Court, by order dated 08.02.2016 modifying the order dated 09.02.2012 in W.A. No.2392 of 2011 passed by the Division Bench of this Court, remitted the matter back to the authority concerned to take appropriate decision, after giving reasonable opportunity to the parties concerned. Since the Joint Director of School Education has rightly rejected the representation of the sister of the writ petitioner by RC No.101903/W4/S3/2011 dated 23.08.2016, after giving notice to all the parties concerned including the writ petitioner's sister Renuka and the fifth respondent/appellant herein, this vital aspect was not brought to the notice of the learned Single Judge. Therefore, the impugned order dated 05.01.2017 passed by the learned Single Judge is liable to be set aside by allowing the writ appeal.

4. We find merits on the submission made by the learned counsel for the appellant. When the representation dated 03.06.2011 given by Renuka/sister of the writ petitioner has already been rejected by the Joint Director of School Education, on the basis of the order dated 08.02.2016 passed by the Hon'ble Apex Court in Civil Appeal No.968 of 2016 in Special Leave (C) No.13055 of 2012, the impugned order dated 05.01.2017 passed by the learned Single Judge directing the Director of School Education, Chennai to consider the writ petitioner's similar representation as that of his sister dated 22.09.2016 is unjustified and unsustainable in law. Therefore, we are inclined to set aside the same. Accordingly, the impugned order is set

aside and the writ appeal stands allowed. Consequently, C.M.P. No.6697 of 2017 stands closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai.
- 2.The Director of School Education,
Chennai-600 006.
- 3.The Chief Educational Officer,
Kancheepuram.
- 4.The District Educational Officer,
Kancheepuram.
- 5.The Joint Director of School Education
(Higher Secondary),
D.P.I. Compound,
Nungambakkam,
Chennai-600 006.

+lcc to M/s.Ebenezer Paul, Advocate, S.R.No.23438

+lcc to the Government Pleader, S.R.No.23671

W.A.No.443 of 2017

CP(CO)
CB(29/06/2021)

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