



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTH

W.A. (MD)No.119 of 2021

and

C.M.P. (MD)No.268 of 2021

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Department of Health and Family Welfare,
Fort St. George,
Chennai - 600 009.
 - 2.State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Department of School Education,
Fort St. George,
Chennai - 600 009.
 - 3.The Director of Medical Education,
O/o. the Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
 - 4.The Selection Committee,
Rep. by the Secretary/Additional Director,
Directorate of Medical Education,
162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
 - 5.The Director of School Education,
O/o. the Directorate of School Education,
DPI Campus, College Road, Chennai - 600 006.
 - 6.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Thanjavur, Thanjavur District.
 - 7.The District Collector-cum-Chairman,
Chattram Administration,
Collectorate,
Thanjavur District.
 - 8.The Special Tahsildar,
Chattram Administration,
Thanjavur District.
- ... Appellants/Respondent 1 to 8
Vs.
1.D.Arun ...Respondent/Petitioner



2.The Headmaster,
Rajah's Higher Secondary School,
Thanjavur - 613 009. ... Respondent/Responpdent-9

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent,
against the dated 07.01.2021, passed in W.P.(MD)No.17835 of 2020.

Prayer in WP(MD). 17835/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Na.Ka.No.2139/D3/2020 dated 11.11.2020 on the file of the respondent No.6 and quash the same as illegal and consequently for a direction, directing the respondent No.3 and 4 to admit the petitioner in the MBBS Course based on his NEET Marks in any of the Government Medical College in accordance with the Tamilnadu Admission to under graduate courses in Medicine, Dentistry, Indian Medicine and Homeopathy on preferential basis to students of Government School Act 2020 (Tamedilnadu Act No.34/2020) and in the light of the Judgment of the HOnourable Supreme Court in S.Krishna Sardha Vs State of Andhra Prades reported in (2019)SCC online SC 1609.

For Appellants : Mr.Sricharan Rangarajan
Additional Advocate General
Assisted by
Mr.K.P.Krishnadoss
Special Government Pleader

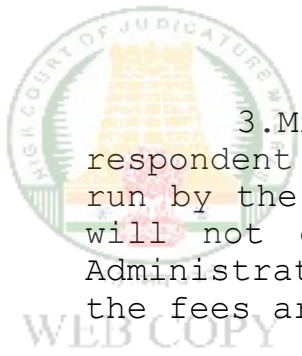
For R1 : Mr.T.Lajapathi Roy

JUDGEMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This Writ Appeal has been preferred against the order of the learned Single Judge, who, after taking note of the fact that the first respondent's parents are pushcart vendors and the School has been taken over by the Government and though the constitution of School Committee involves the representative of other independent persons, has held that the first respondent is entitled to the relief as sought for.

2.Though it is contended by the learned Additional Advocate General that notwithstanding the taking over of the School by the Government and considering the constitution of the Committee, which runs the School, the School in question cannot be termed as a Government School, bringing it under the purview of the definition clause. Therefore, the benefit of Tamil Nadu Act No.34 of 2020 is not available.



3.Mr.T.Lajapathi Roy, learned counsel appearing for the first respondent submitted that the fact remains that the School is being run by the instrumentality of the State and the inclusion of others will not change the character, as they only participate in the Administration. It is a Tamil Medium School and the Curriculum and the fees are also same as that of the Government School.

4.The first respondent/writ petitioner has got admission. Though *prima facie* we are of the view that the School in question cannot be termed as a Government School in the strict sense, we do not wish to overturn the ultimate relief granted by the learned Single Judge. The first respondent belongs to the Scheduled Caste Community and his parents are pushcart vendors. There is no other School available in the vicinity and practically, the School is managed by the Government Department viz., the Revenue Department. Whether the School is a Government School or a private School is a different issue.

5.In such view of the matter, we do not wish to interfere with the ultimate relief granted by the learned Single Judge, though we are of the view that the School in question cannot be termed as a Government School *per se*. Secondly, the Student has joined and therefore, at this stage, it is not feasible to allow the Writ Appeal, as no other candidate would be benefitted, since the cut-off date is already over.

6.In such view of the matter, we dispose of this Writ Appeal while confirming the relief granted by the learned Single Judge, in the light of our aforesaid observations. Since it is submitted by the learned Additional Advocate General that there are other Schools, similarly placed, we direct the first appellant to take a call as to whether such Schools can be given the benefit of the Tamil Nadu Act 34 of 2020, so that, from the next academic year, there will be some clarity. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Principal Secretary to Government of Tamil Nadu,
Department of Health and Family Welfare,
Fort St. George,
Chennai - 600 009.

2.The Principal Secretary to Government of Tamil Nadu,
Department of School Education,
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3.The Director of Medical Education,
O/o. the Directorate of Medical Education,
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4.The Secretary/Additional Director,
Selection Committee,
Directorate of Medical Education,
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5.The Director of School Education,
O/o. the Directorate of School Education,
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6.The Chief Educational Officer,
O/o. the Chief Educational Officer,
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7.The District Collector-cum-Chairman,
Chattram Administration,
Collectorate,
Thanjavur District.

8.The Special Tahsildar,
Chattram Administration,
Thanjavur District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-13857[F] dated
26/03/2021)

W.A. (MD) No.119 of 2021
24.03.2021

TP (CO)

KB (23.04.2021) 4P 10C



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