



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.2696 of 2013

Meenakshi High School,
Nondikovilpatti,
Through Its Correspondent
S.Muthiah,
S/o. Somanathan,
Nondikovilpatti,
Melur Taluk,
Madurai District.

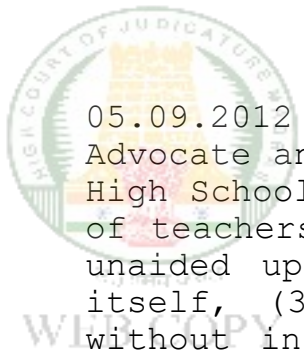
... Petitioner

Vs.

- 1.The Secretary to Government,
Education Department,
Secretariat,
Chennai - 9.
- 2.The Director of School Education,
College Road,
Chennai - 9.
- 3.The Director of Elementary Education,
College Road,
Chennai - 9.
- 4.The Chief Educational Officer,
Madurai.
- 5.The District Elementary Educational Officer,
Madurai.
- 6.The District Educational Officer,
Madurai North,
Melur - 625 106.
- 7.The Assistant Elementary Educational Officer,
Melur and Post,
Melur Taluk,
Madurai District - 625 106.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records from the fourth respondent relating to the impugned order passed by him in his proceedings Oo.Mu. 10336/B4/2012 dated 17.12.2012 quash the same and consequently direct the respondents 1 and 2 to consider the written representation of the petitioner dated



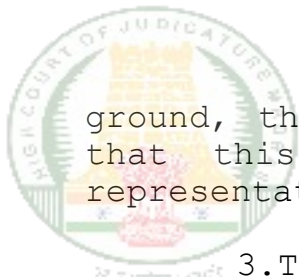
05.09.2012 by way of legal notice dated 05.09.2012 sent through his Advocate and to (1) grant Grant-in-Aid to the petitioner's Meenakshi High School for the classes IX and X also, (2) to grant the transfer of teachers from the petitioner's Elementary School sections to the unaided upgraded classes IX and X within the petitioner's School itself, (3) to transfer the sanctioned vacant post of Teachers without incumbent from other surplus school similarly situated to the petitioner's unaided classes IX and X, and (4) to transfer the sanctioned four posts of Elementary School Teachers posts which are vacant in the Elementary School section of the petitioner's school itself to the petitioner's unaided classes IX and X.

For Petitioner : M/S.P.Senthurpandian
For Respondents : Mr.M.Linga Durai
Government Advocate

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus to quash the impugned order passed by the fourth respondent dated 17.12.2012 and to direct the respondent 1 and 2 to consider the representation of the petitioner dated 05.09.2012 sent through his advocate to grant grant-in-aid to the petitioner High school for classes IX and X.

2.The petitioner is a school, which was established in the year 1947 as a Elementary School with classes from 1st standard to 5th standard. Later the school was upgraded as middle school from 1961 by having classes from 6th standard to 8th standard. After adding Classes 9th standard and 10th standard, the School was upgraded as High School. It is not in dispute that the petitioner has been receiving grant up to 8th standard. Though the respondents had banned grant-in-aid to newly started classes, it is submitted by the petitioner that the ban was lifted to enable the Educational institution to receive grant-in-aid. Since there was a ban, the petitioner states that they forego their right to get grant-in-aid for the new classes, when they applied for permission. By the impugned order, the request of the petitioner to grant grant-in-aid to the classes IX and X was rejected on the ground that the petitioner's correspondent had given an undertaking not to claim grant-in-aid for the standard IX and X, while upgrading the school from middle school to high school. The learned counsel appearing for the petitioner argued that the impugned order is invalid on various grounds. The learned counsel relied on the judgment of the Honourable Division Bench of this Court in the case of **G. Sahadevan Nair -vs- Government of TamilNadu and others**, reported in **(2008)4 MLJ 289**, wherein the Division Bench has held that the minority institutions cannot be denied such right to get aid / grant by getting a letter that such institution could not claim grant in future, if there is a provision for grant of aid to such institutions. Stating that the order of rejection was on a wrong



ground, the learned counsel appearing for the petitioner submitted that this Court may direct the respondents to consider the representation of the petitioner afresh.

3.The learned Government Advocate appearing for the respondents, on the other hand, submitted that the petitioner was informed by the respondents, even while granting permission to upgrade the school as high school, that the petitioner shall not claim grant-in-aid for the new classes. Since the upgradation itself was subject to condition, it was contended by the learned Government Advocate that the prayer in the writ petition cannot be considered.

4.The learned counsel appearing for the petitioner, however, submitted that this Court may direct the respondents to consider the petitioner's application for grant-in-aid to the newly introduced classes (namely standard IX and X) on merits and in accordance with law, in the light of the various Government Orders and the judgment of the Division Bench of this Court in **G. Sahadevan Nair** case (cited supra).

5.Considering the limited scope of the prayer that is now sought for by the petitioner, this Court is of the view that the impugned order may be reviewed, in the light of the judgment of the Division Bench of this Court. Accordingly this Court is inclined to pass the following orders, without expressing any views on merits.

"The impugned order passed by the fourth respondent in Oo.Mu. 10336/B4/2012, dated 17.12.2012 is quashed. However, the respondents shall consider the petitioner's representation for grant-in-aid to classes IX and X, and dispose of the same and pass appropriate orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of copy of this order. This Court does not express or declare the right or entitlement of the petitioner. Accordingly, this Writ Petition is disposed of. No costs."

Sd/-

Assistant Registrar (CRL)

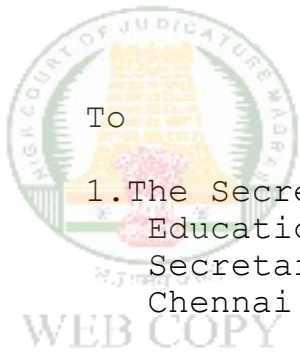
// True Copy //

/ /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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

- 1.The Secretary to Government,
Education Department,
Secretariat,
Chennai - 9.
 - 2.The Director of School Education,
College Road,
Chennai - 9.
 - 3.The Director of Elementary Education,
College Road,
Chennai - 9.
 - 4.The Chief Educational Officer,
Madurai.
 - 5.The District Elementary Educational Officer,
Madurai.
 - 6.The District Educational Officer,
Madurai North,
Melur - 625 106.
 - 7.The Assistant Elementary Educational Officer,
Melur and Post,
Melur Taluk,
Madurai District - 625 106.
- +1 CC to Mr.P.Sendurpandian, Advocate (SR28402)

W.P. (MD) .No.2696 of 2013
06.09.2021

_RS (20.09.2021) 4P 9C