



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.03.2021

PRONOUNCED ON : 31.03.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.1953 of 2021

and

W.M.P. (MD)No.1672 of 2021

V.Lakshmi : Petitioner

Vs.

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Chief Educational Officer,
O/o.the Chief Educational Office,
Thanjavur,
Thanjavur District.
- 3.The District Educational Officer,
O/o.the District Educational Office,
Kumbakonam,
Thanjavur District.
- 4.The Secretary,
Banadurai Higher Secondary School,
Kumbakonam,
Thanjavur District.
- 5.The Headmistress,
Banadurai Higher Secondary School,
Kumbakonam,
Thanjavur District.
- 6.Mrs.N.Vijayashree,
Headmistress,
Banadurai Higher Secondary School,
Kumbakonam,
Thanjavur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the

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respondents to admit the petitioner's sons, viz., V.Tamilarasan and V.Ezhilarasan in the 4th respondent school to pursue XI Standard course.

For Petitioner : Mr.T.Lajapathi Roy
for M/s.Ajmal Associates

For Respondents : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader
for R.1 to R.5

Mr.T.Antony Arulraj
for R.6

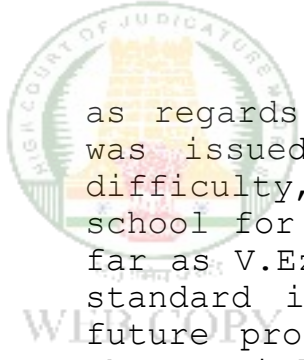
ORDER

The petitioner is the mother of twin sons, namely, V.Tamilarasan and V.Ezhilarasan. Her son, V.Tamilrasan, studied upto 9th standard in the fourth respondent school and the other twin son, V.Ezhilarasan, studied upto 10th standard in the same school. As far as the relief claimed in this writ petition, it is confined only to the son V.Ezhilarasan and not the other son, V.Tamilarasan.

2. According to the petitioner that on completion of 10th standard by her son V.Ezhilarasan, the petitioner claims to have approached the fourth respondent school seeking admission for him in the 11th standard on 12.08.2020. She was directed to approach the authority on 17.08.2020 and she immediately obliged. When she finally approached the authorities on 07.09.2020, she appears to have informed by the school authorities that her son cannot be admitted in the school in the 11th standard for his indifferent conduct and she was directed to get her son admitted in a different school.

3. The petitioner appears to have submitted a representation on 08.10.2020 for admission of her son, V.Ezhilarasan, in the 11th standard in the fourth respondent school and also submitted an application under the Right to Information Act on 14.10.2020. But there was no response to the said representations. The petitioner has also approached the District Collector in that regard on 25.01.2021. But, despite the Collector's directive to the school to consider her grievance favourably and despite the petitioner meeting the school authorities on a number of occasions, nothing had turned out positively.

4. According to the petitioner that the school is located within 100 meters from her residence and she is working as a Cook/ Noon Meal Staff in a Primary School at Kumbakonam and her husband/ father of the boy is working as a Coolie in Kerala. Therefore, it is very difficult for them to seek admission of their boy in a different school at the stage of 11th standard. According to her that

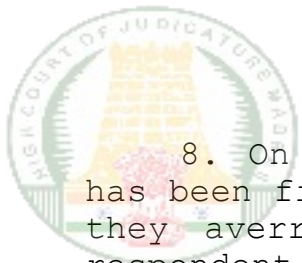


as regards her other twin son, V.Tamilarasan, Transfer Certificate was issued on completion of 9th standard itself and with great difficulty, she has managed to secure admission in a different school for V.Tamilarasan and he is now going to the said school. As far as V.Ezhilarasan is concerned, if he is not admitted in the 11th standard in the same school, ie., fourth respondent school, his future prospects would be completely undermined, particularly, at the crucial stage of his school career. Therefore, the petitioner is before this Court seeking issuance of a writ of mandamus directing the fourth respondent school to admit her son, V.Ezhilarasan, in the 11th standard by condoning any act of misconduct of her son.

5. Mr.M.Ajmal Khan, learned Senior Counsel appeared for the petitioner submitted that there was no specific allegation of misconduct averred against the petitioner's son, V.Ezhilarasan and the allegations are very general in nature. In any case, he submitted that a mere allegation of improper conduct on the part of the student, who was only 15 years old or so, cannot be the basis for sending him out of the school and not allowing him to continue his studies at the same school during the crucial stage of his school career.

6. This Court, in response to the submission made by the learned Senior Counsel, in order to bring about a conciliation between the petitioner and the school authority, enabling the student to complete his school education without any dislocation, enquired with the learned Counsel for the fourth respondent school, whether any readmission is possible at all in the matter. After consulting with the school authorities, the learned Counsel for the school submitted that the boy has been an indisciplined student and is not amenable to the code of conduct expected of all the students in the school. According to the school that as averred in the counter affidavit filed, the student concerned has been indulging in quarrel with the other students all the time, resorting to violence and using abusive language. Despite several warnings given by the school management, he has not changed his attitude and continued to involve in errant behaviour and therefore, the school had no other alternative except to issue transfer certificate, which was initially demanded by the petitioner herself.

7. According to the counter affidavit and also the learned Counsel appearing for the fourth respondent school that the conduct of the student has not been conducive for maintaining the overall discipline of the school and the school authorities have received number of complaints in regard to his class room behaviour and the complaints have been included in the typed set of papers filed on behalf of the school in this proceedings. Therefore, the learned Counsel appearing for the school submitted that admitting V.Ezhilarasan would be against the interest of all other students studying in the school and hence, the school has rightly taken a



8. On behalf of the official respondents, a counter affidavit has been filed and as far as the official respondents are concerned, they averred that it is between the petitioner and the fourth respondent school and in regard to the dispute between them, no written representation or complaint has been addressed to the official respondents. Therefore, they have nothing to say or add in the ongoing dispute in the writ petition.

9. Mr.T.Lajapathi Roy, learned Counsel, who appeared in the subsequent occasions on behalf of the petitioner, submitted that the purpose of education is to bring about overall growth in the student, not only in terms of academics, but also the character and conduct of the student. According to the learned Counsel that education in the school is not only meant to improve the academic performance of the student, it also meant to shape his character and conduct and hence, the decision of the school not to admit the student at the crucial stage of the school career on the basis of general complaint by the fourth respondent is without justification.

10. The learned Counsel has also submitted that the petitioner, mother of V.Ezhilarasan has come up with an affidavit regretting for her son's conduct as alleged in the counter affidavit filed by the fourth respondent school and that she has given sufficient advice to her son for his orderly conduct in future and she would also ensure that her son would abide by the disciplinary norms of the school hereafter. The additional affidavit of the petitioner dated 23.03.2021 is taken on file of this Court.

11. The learned Counsel for the fourth respondent school submitted that notwithstanding the affidavit of undertaking by the petitioner, the school still has its own reservation about admitting the student, because of his past conduct. According to the Counsel, the school management is not convinced of the apology tendered by the mother in the additional affidavit. The learned Counsel would submit that the school management has to focus its attention on several hundred students studying in the school and it cannot concentrate on one student for his proper behaviour and conduct.

12. The learned Counsel has also relied on some decisions of the Courts touching upon the issue on hand, which according to him may be taken as precedent in granting relief to the student herein. The following decisions have been cited with reference to particular paragraphs:

i) **(2009) 1 SCC 794**, in the case of **Principal, Kendriya Vidyalaya and Others v. Saurabh Chaudhary and Others**, wherein, the Hon'ble Supreme Court has held as follows:

"11. ... In Payal (supra), thus, this Court clearly held that on passing the examination promotion from one class to the next higher class does not involve any fresh admission or readmission in the school and whether the examination is



internal or a general examination by an external statutory agency makes no difference in the position.

... ..

18. One can have no objection to a school laying down cut-off marks for selection of suitable stream / course for a student giving due regard to his / her aptitude as reflected from the Class X marks where there are more than one stream. But it would be quite unreasonable and unjust to throw out a student from the school because he failed to get the cut-marks in the Class X examination. After all the school must share at least some responsibility for the poor performance of its student and should help him in trying to do better in the next higher class. The school may of course give him the stream / course that may appear to be most suitable for him on the basis of the prescribed cut-off marks.

19. In the present case, it would have been perfectly open to the appellants to offer admission to the boy, Saurabh Chaudhary in Class XI in streams / courses other than Science stream with Mathematics on the basis of the prescribed cut-off level of marks, had such courses been available in Central School No.2, AFS, Tambaram. But this school has only Science stream with Mathematics for Classes XI and XII. The decision in Payal (supra) forbids the school from turning down a student because he / she failed to get the cut-off level of marks for admission to Class XI. As a result of this fortuitous circumstance the boy must get admission in Class XI in Central School No.2, AFS, Tambaram in Science stream with Mathematics."

ii) (1997) 3 CTC 590, in the case of **Parents / Guardians Association of Karunya Institute of Technology v. Director of Technical Education and Others**, wherein, this Court has held as follows:

"5. The purpose of education is improvement, but it must be all round improvement and not merely physical and intellectual improvement, but also moral and spiritual improvement. An educated man is qualitatively a better man, better in every respect specially in terms of human qualities. The students should realise that the Institution is there to make them grow, grow not for their sake only, but for the sake of others as well. The management should also realise that imposing their own faith against the wish of others in an educational institution in the guise of discipline amounts to forego their own faith and affects their sentiments. The management should not create such atmosphere, or to create a circumstance provoking a situation where the immature mind will react to a situation aggressively. It is all the more necessary for the management to develop a sense of compassion, fellow-feeling, harmony, understanding and sympathy towards the students. It is these qualities that hold the students and the management together. It should aim at



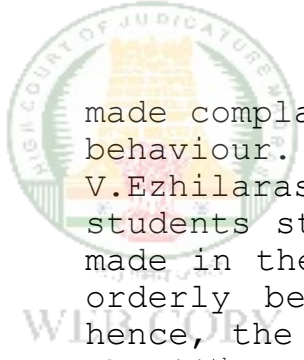
making pupil thoughtful, intelligent, rational capable and responsive to new ideas, but more important it should also make them moral, kind, generous and selfless. This can be achieved by a good understanding and not by hatred. The delinquent students should abide by the undertaking given before this Court and conduct in an orderly way to facilitate smooth functioning of the College. The management should not have a revengeful eye on the delinquent students keeping the interest of the Institution and the students. Respondent No.3 is directed to open the College, if not already opened, as submitted by the management on the previous date of hearing."

iii) **(2012) 2 CTC 629**, in the case of **M.Raghuvaran v. State of Tamil Nadu and Others**, wherein, this Court has held as follows:

"26. Today's students are tomorrow's citizens of the nation and, therefore, education is a fundamental right for them. Mere use of a technological advancement which causes certain inconvenience will not deprive them of their right to education. The impugned orders of dismissal of the petitioners will not only prevent the petitioners from proceeding further with their education but will ruin their entire future, in case the said orders are allowed to take effect. Hence, it is for the State authorities, educational institutions and all other stakeholders in the respective field to evolve a mechanism with regard to the usage of cellphones by the students and the regulation thereof. In view of my findings in the foregoing paragraphs, the orders impugned are ex facie illegal, non-speaking and with total non-application of mind, besides being passed without affording an opportunity to the petitioners. As such, they suffer from violation of principles of natural justice as well. In such view of the matter and considering the totality of facts and circumstances of this case, this Court is of the considered opinion that the decision arrived at by the fourth respondent in the orders impugned to dismiss the petitioners from the college is totally unwarranted. Accordingly, these writ petitions are allowed and the orders impugned are quashed. The fourth respondent is directed to re-admit the petitioners into the college at once. It is made clear that the period of absence of the petitioners, if any, during the dismissal, shall be reckoned as attendance, so as to enable them to write examinations in due course. No costs. Consequently, the connected M.P.Nos.1 of 2012 are closed."

13. Considered the submissions of the learned Counsel for the respective parties.

14. The bone of contention on the part of the school authority is centered on the refractory conduct and behaviour of the petitioner's son, V.Ezhilarasan and according to the management, almost all the teachers, who conducted classes for the student, have

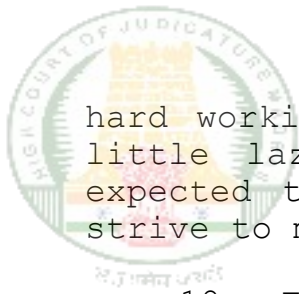


made complaints against him for his deviant conduct and unacceptable behaviour. According to the school authorities that the presence of V.Ezhilarasan in the school would spoil the discipline of other students studying in the school and that several attempts have been made in the past in order to discipline the boy and to guide him to orderly behaviour, but the attempts did not bear any fruit and hence, the school has finally taken the decision not to admit him in the 11th standard.

15. The above objection of the school, in the opinion of this Court, cannot be discarded or ignored completely, in consideration of the petitioner's request or relief claimed in this writ petition. At the same time, in exercise of its equity jurisdiction which is an integral part of the constitutional function, this Court cannot accept the objection of the school on its face value and examine the request of the petitioner and come to any conclusion from the point of view of the school alone, ignoring the future of the student. No doubt, the conduct and behaviour of a student is very important to the school authorities in the overall welfare and interest of all other students studying in the school, nevertheless, while imparting education, the School has concomitant duty to inculcate good conduct and character in every student as part of the pedagogical imperatives. Education, which derives from the Latin words, 'Educare', 'Educere' and 'Educatum', means the act of teaching or training, to nourish, to bring up, to lead forth, to raise, to draw out. Etymologically, the term Education means drawing out the best of a student, not only in terms of his or her academic potential, but also in terms of the all round growth of the students, who come under the tutelage of the school in their foundational and formative years of learning.

16. It is needless to mention that there are two facets to education. One is to draw out the best ability of the student emphasizing the aspect of securing a good career prospects for his material well being in future and the other facet is the character edification and the inculcation of values of life, its meaning and existence. The combination of the above said two facets ought to be the aim of every school management to sub-serve the interest of the society at large.

17. As far as the case on hand is concerned, except some general complaints emanated from the school teachers, no specific instances of any incorrigible behaviour of the student has been pointed out to sustain the objection of the school. In an institution having several hundreds of students on its strength, the students hailing from various socio-economic, cultural backgrounds in a highly stratified society of ours, it is too much for any institution to expect a homogeneous conduct and regimented behaviour from all sections of the students. In a school, it is very much common to witness variegated response by the students to the demand of discipline and attention. Some students are passionate, some are



hard working, some are hardly working, some are playful, some are little lazy, some are obtuse etc. The schools of learning are expected to handle and manage different segments of students and strive to mould them into a good citizen.

18. This Court is conscious of the fact that in today's context, the schools are run as enterprises with a paramount aim of achieving excellence in terms of their academic balance sheet with a view to be a leader in the education market. In the bargain, all round growth of the students is relegated to the back burner, if not, it is altogether shunted out of the academic activities. The core purpose of education, one should not forget, is to bring out the best in the children on all fronts. Some students may be boisterous and brash, characteristics of teenage indulgences. But, ultimately, what is to be seen by the school management is as to whether the student concerned has become thoroughly incorrigible by his exceptional deviant conduct compelling the school to act drastically as in the present case.

19. It is easier for any institution to send a student away on the ground of indiscipline. But such easier way out for the school would amount to shirking its ultimate responsibility cast upon it and reflect on its inability to address so called errant behaviour of the student concerned, which is not uncommon in any school, for that matter. It takes a broad mind and a large head to understand the teenage proclivities of rebellious streak and address the so called waywardness of the student, as integral part of the school's bounden duty, instead of sending out the student from the school as quick fix reaction or solution.

20. Coming back to the case on hand, the complaints given against the student, as stated above, are quite normal and in fact, many students may attract such type of complaints constituting common place juvenile transgression and deviance. But this Court is of the considered view that the school authorities may well be advised to accept the affidavit of undertaking of the mother ensuring her son's (V.Ezhilarasan's) good behaviour for the next two years in the school. An odd behaviour of a teenage student may not be taken to ruffle or provoke the collective conscience of the school management to the point of shunting the school doors on him. The school needs to be reminded of great words of Mr.Abraham Lincoln "*mercy bears richer fruits than strict justice*".

21. In fact, in one of the decisions cited on behalf of the petitioner **[(1997) 3 CTC 590]** a learned Judge of this Court emphasised the concept of education meaning all round improvement, not merely physical and intellectual, but also moral and spiritual improvement. Well observed the learned Judge. As our civilization is progressively moving towards embracing Artificial Intelligence (AI), priorities change, focus shifts in the field of education. But certain fundamental and cardinal duties of the educationists



like imparting value based education ought not to be consigned in the Archives of the history as a concept of the past, considering the same as antediluvian and anachronistic in the present progressive times.

22. In the conspectus of the above discourse, the writ petition is allowed and the fourth respondent school is directed to admit the student, V.Ezhilarasan, in the 11th standard on taking into consideration of the affidavit of undertaking dated 23.03.2020, filed by his mother, the petitioner herein and also taking note of the observations of this Court. The fourth respondent school is directed to comply with the aforesaid direction within a period of one week from the date of receipt of a copy of this order, as the present academic year has already commenced and it is under way.

23. In fine, the writ petition stands allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar (CS)

Gk

To

1. The District Collector,
Thanjavur District,
Thanjavur.

2. The Chief Educational Officer,
O/o. the Chief Educational Office,
Thanjavur,
Thanjavur District.

3. The District Educational Officer,
O/o. the District Educational Office,
Kumbakonam,
Thanjavur District.

+1cc to M/S T. Antony Arul Raj, Advocate (Sr.No.15207 Dated:01/04/2021)

W.P. (MD) No.1953 of 2021

31.03.2021

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