



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.15321 of 2022 and W.M.P.No.14488 of 2022

V.Sadagopan

.. Petitioner

vs

1. Union of India
represented by the Secretary
Department of School Education
and Literacy, Ministry of Education
Shastri Bhawan, Dr.R.P.Road
New Delhi 110 001.
2. Government of Tamil Nadu
represented by the Secretary
School Education Department
Fort St.George, Chennai-600 009.
3. The Chairperson
Tamil Nadu Commission for
Protection of Child Rights
183/1, EVR Periyar Salai
Kilpauk, Chennai 600 010.
4. The Chief Educational Officer
Collectorate Building 'B' Block
Sathuvachari, Vellore 632 009.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus directing the calling for the records of the Respondent -1 pertaining to the decision - Making -process in the formulation of the Explanation given under the Rule 9 (1) of the Right of children to free and compulsory Education Rules 2010 Published on 09.04.2010 in the Gazette of India No. 180 Extraordinary Part II-section 3 (1) and quash the same and consequently direct the Respondent -1 to undo the legal wrong by exempting the unaided schools which adhere to the same syllabi ad textbooks



prescribed by the respective state Governments from the responsibility of providing free text books writing materials and uniforms as per Rule 9 (1) of the central Rules 2010 read with sec 2 (n) (iv) of the central Act of 2009.

WEB COPY

For the Petitioner : Mr.R.Natarajan

For the Respondents : Mr.N.Vijayaraghavan
Central Government
Standing Counsel - for R1

Mr.P.Muthukumar
State Government Pleader - for R2

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed by the petitioner to challenge the validity of Explanation given under Rule 9(1) of Right of Children to Free and Compulsory Education Rules 2010. The aforesaid rule is quoted below for ready reference.

"9. Responsibilities of the appropriate Government and local authority : -

(1) A child attending a school of the appropriate Government or local authority referred to in sub-clause(i) of clause(n) of section 2, a child attending a school referred to in sub-clause (ii) of clause (n) of section 2 in accordance with clause(b) of sub-section (1) of section 12, and a child attending a school referred to in sub-clause (iii) and (iv) of clause (n) of section 2 in accordance with clause (c) of subsection(1) of section 12 shall be entitled to free education as provided for in subsection(2) of section 3 of the Act, and in particular to free text books, writing materials and uniforms:

Provided that a child with disability shall be entitled also for free special learning and support material.

Explanation : For the purposes of sub-rule (1), it may be stated that in respect of the child admitted in accordance with clause(b) of sub-section(1) of



(ii) of clause (ii) of section 2 and of sub-clauses (iii) and (iv) of clause (n) of section 2, respectively."

2. Challenge to the Rule has been made alleging burden of the educational institutions in providing the free entitlement to the RTE students. It is further submitted that it is contrary to subsection(2) of Section 3 of the Right of Children to Free and Compulsory Education Act 2009. Section 3 of the Act is also extracted hereunder for ready reference.

"3(1). Every child of age of six to fourteen years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education.

(2) For the purpose of sub-section(1), no child shall be liable to pay any kind of fee or charges which may prevent him or her from pursuing and completing the elementary education."

3. Before addressing the issue, it would be necessary for this Court to address the locus of the petitioner. The writ petition has not been filed by the educational institution, but by the individual showing him to be the Correspondent of Little Flower Matriculation School.

4. In view of the above, it is clear that the writ petition is filed by the individual having no locus to challenge the validity of the Rule and he is not affected, rather if anyone is affected it is the educational institution. Hence, the writ petition deserves to be dismissed on the ground of locus as it is not otherwise a Public Interest Litigation.

5. That apart, the writ petition has been filed after a lapse of around 12 years to challenge the Rule brought in the year 2010. If it was affecting the educational institution, it is from the date of bringing the Rules. No justification for the delay in challenging the Rule has been given in the writ petition. Thus, the writ petition suffers from laches as well.



6. In view of the above, finding no locus in favour of the petitioner to challenge the Rule, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition in W.M.P.No.14488 of 2022 is also dismissed.

WEB COPY

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

kst

To:

1. The Secretary to Government
Department of School Education
and Literacy, Ministry of Education
Shastri Bhawan, Dr.R.P.Road
New Delhi 110 001.
2. The Secretary to Government of Tamil Nadu
School Education Department
Fort St.George, Chennai-600 009.
3. The Chairperson
Tamil Nadu Commission for
Protection of Child Rights
183/1, EVR Periyar Salai
Kilpauk, Chennai 600 010.
4. The Chief Educational Officer
Collectorate Building 'B' Block
Sathuvachari, Vellore 632 009.

+1cc to Mr.Natarajan, Advocate, S.R.No.37510

+1cc to the Government Pleader, S.R.No.38206

W.P.No.15321 of 2022

MG (CO)
UMA (28/06/2022)