



W.P.No.26264 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

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M.L.Ravi

.. Petitioner

Vs

1.The Principal Secretary to Government,
Ministry of School Education,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai, TN-600 009.

2.The Director,
Directorate of Matriculation Schools,
DPI Campus, College Road,
Nungambakkam,
Chennai-600 028.

3.The Chairman,
Latha Educational Society,
NH-79, Chennai-Ulundurpet-Salem Highway,
Kaniyamoore, Kallakurichi Taluk,
Villupuram-606 201.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the second respondent to consider the representation sent on 14.9.2022 in considering the safety and security of the students of the school to take over the management from the Latha Educational Society by the Government or form an independent eminent committee to administer the school.

For the Petitioner : Mr.T.Sivaganansambandan

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent Nos.1 and 2

ORDER

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

Mr.M.L.Ravi, son of M.Lakshmipathy, claiming to be a President of Desiya Makkal Sakthi Katchi, a Social Activist and a practising advocate, has stated that Desiya Makkal Sakthi Katchi is a registered political party bearing Registration No.56/89/2015/PPS-I/293 and has contested in various general/by-elections to the Legislative Assembly in Tamil Nadu and Parliament elections in Tamil Nadu and Maharashtra. It is stated that the petitioner has got right to espouse the the cause of public.



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2. Learned counsel for the petitioner submitted that the third respondent educational society first started a school in 1998 as Sakthi (International) Matriculation Higher Secondary School and it also runs a CBSE school, namely ECR International CBSE school, with 6000 students. The said school is a residential school having hostel facilities. However, the school management has not obtained license to run the hostel till date.

3. Learned counsel for the petitioner further submitted that on 14.9.2022, the petitioner has submitted a representation to the second respondent to take over the management of the school from the present management or constitute an independent committee consisting of eminent educators to manage the affairs of the school. Though the second respondent received the said representation, till date the same has not been considered and no action has been taken against the said school. Therefore, the petitioner has been advised to file the present writ petition.



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4. We have considered the submissions made by learned counsel for the petitioner and also perused the records.

5. The petitioner has filed the present writ petition as a public interest litigation. It is also a fact that the petitioner is a practising lawyer and the Apex Court in the case of **Dattaraj Nathuji Thaware v. State of Maharashtra, (2005) 1 SCC 590** has not endorsed the public interest litigation in the hands of a practising advocate. Paragraph 20 is relevant and the same is quoted hereunder for ready reference:

*"20. It is a disturbing feature which needs immediate remedial measure by the Bar Councils and the Bar Associations to see that the process of law is not abused and polluted by its members. **It is high time that the Bar Councils and the Bar Associations ensure that no member of the Bar becomes party as petitioner or in aiding and/or abetting files frivolous petitions carrying the attractive brand name of "public interest litigation".** That will be keeping in line with the high traditions of the Bar. No one should be permitted to bring disgrace to the noble profession. We would have imposed exemplary cost in*



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this regard but taking note of the fact that the High Court had already imposed costs of Rs 25,000, we do not propose to impose any further cost."

[emphasis supplied]

6. Coming to the merits of the writ petition, we are unable to find any justification or reason for filing the above writ petition in public interest. Only, a one-line reason has been given by the petitioner in paragraph 5 of the affidavit filed in support of the writ petition, which is re-produced hereunder:

"5. I submit that the School Management has not obtained license to run the hostel till date."

The aforesaid one-line reason cannot be a ground for the petitioner to file the present public interest litigation and based on the aforesaid, this Court cannot issue direction to the government to take over the management of the school and the hostel in question.

7. In ***Guruvayoor Devaswom Managing Committee v. C.K. Rajan, (2003) 7 SCC 546***, the Apex Court has summarised the principles for entertaining the public interest litigation, which read thus:



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"(i) The Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court.

(ii) Issues of public importance, enforcement of fundamental rights of large number of public vis-a-vis the constitutional duties and functions of the State, if raised, the Court treat a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings.

(iii) Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in Articles 14 and 21 of the Constitution of India as well as the International Conventions on Human Rights provide for reasonable and fair trial.

(iv) The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the deprived, the illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right.

(v) When the Court is prima facie satisfied about variation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Government, from raising the question as to the maintainability of the petition.

(vi) Although procedural laws apply to PIL cases but the question as to whether the principles of res



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judicata or principles analogous thereto would apply depend on the nature of the petition as also facts and circumstances of the case.

(vii) The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation.

(viii) However, in an appropriate case, although the petitioner might have moved a Court in his private interest and for redressal of the personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice.

(ix) The Court in special situations may appoint Commission, or other bodies for the purpose of investigating into the allegations and finding out facts. It may also direct management of a public institution taken over by such committee.

(x) The Court would ordinarily not step out of the known areas of judicial review. The High Courts although may pass an order for doing complete justice to the parties, it does not have a power akin to Article 142 of the Constitution of India.

(xi) Ordinarily the High Court should not entertain a writ petition by way of Public Interest Litigation questioning constitutionality or validity of a Statute or a Statutory Rule."

8. In the case on hand, barring a vague statement that the



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school management has not obtained any license, no other valid ground has been raised. That apart, the representation was sent to the respondents only on 14.9.2022 and, in our considered opinion, the respondents should be given some breathing time to consider the same on its own merits, rather than this Court giving any direction in this writ petition as prayed for by the petitioner.

9. Looking to the averments and pleadings made by the petitioner and finding the present petition not to be a bonafide petition and as the practice of filing public interest litigation by an advocate is deprecated by the Apex Court in the case of **Dattaraj Nathuji Thaware** (supra), the writ petition is dismissed being devoid of merits. There will be no order as to costs. Consequently, W.M.P.No.25348 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
29.09.2022

Index : Yes/No
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To:



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