



W.P.(MD)No.13973 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13973 of 2013

and

M.P.(MD)No.1 of 2013

Masood Thaika Higher Secondary School,
Kadayanallur, Bazzar Road,
Kadayanallur, Tirunelveli District – 627751
represented by its Manager and Correspondent,
Janab O.M.S. Hassan Magdoo Alim Sahib.

... Petitioner

Vs.

1.The Government of Tamil Nadu
represented by its Secretary to Government
School Education Department, Secretariat,
Fort St. George, Chennai – 9.

2.The Director of School Education,
DPI Complex, College Road,
Chennai – 06.

3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

4.The District Educational Officer,
Tenkasi, Tirunelveli District.

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, directing the respondent not to extend the G.O.Ms.No.213, dated 26.12.2011 School Education Department in so far as petitioner school is concerned and consequently forbear respondents from interfering with petitioner's right to administer and manage petitioner school as guaranteed under Article 30(1) of the Constitution of India.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.V.Nirmal Kumar
Government Advocate

ORDER

The present writ petition has been filed seeking for a Writ of Mandamus, directing the respondents not to extend the applicability of G.O.Ms.No.213, dated 26.12.2011, School Education Department for compelling the petitioner school to form a School Committee as mandated under the Private School Regulation Act.

2. The learned Counsel for the petitioner has relied upon the



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judgment of this Court dated 05.07.2016 made in batch of writ petitions in W.P.(MD)No.2774 of 2012, in paragraph No.5 of the said judgment, the learned Single Judge of this Court after referring to the judgment of the Honourable Supreme Court has held that as far as minority Institution are concerned, G.O.Ms.No.213 is not applicable and they cannot be compelled to form a School Committee. However, the said issue is pending before the Honourable Supreme Court.

3. The Honourable Supreme Court has taken a final decision in *Paramati Educational and Cultural Trust (Registered) and others vs. Union of India and others reported in (2014) 8 SCC 1*. As per the said judgment of the Honourable Supreme Court, the Right to Education Act is not applicable even to Aided Minority Schools. The said judgment of the Honourable Supreme Court has been followed by the learned Single Judge of this Court in *W.P.(MD)No.30805 of 2012, dated 09.03.2020, in Madras Christian College Higher Secondary School vs. The Secretary to Government and others*. In view of the judgment of the Honourable Apex Court and followed by the learned Single Judge of this Court, the



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said Writ Petition is allowed. The petitioner school shall not be compelled by the respondent authorities to comply with the G.O.Ms.No.213 dated 26.12.2011.

4. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.07.2022

Index : Yes / No
Internet : Yes / No
jbr

To

- 1.The Secretary to Government
School Education Department, Secretariat,
Fort St. George, Chennai – 9.
- 2.The Director of School Education,
DPI Complex, College Road,
Chennai – 06.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

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jbr

4.The District Educational Officer,
Tenkasi, Tirunelveli District.

Order made in
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20.07.2022