



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.06.2022
CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

WEB COPY

W.P. (MD) .No.3810 of 2012

and

M.P. (MD) No.2 of 2012

The Correspondent,
St.Joseph's Matric. Hr.Sec.School,
Nagercoil -629 001,
Kanyakumari District.

... Petitioner

Vs.

1.The State of Tamilnadu,
represnted by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of Matriculation Schools,
College Road, Chennai- 600 006.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent Director of Matriculation Schools, vide proceedings Na.Ka.No.4844/A4/11, dated 17.11.2011, to quash the same and further, to direct the 1st respondent Secretary to forthwith pass orders recognizing the status of the petitioner's school namely, St.Joseph's Matriculation Higher Secondary School, Nagercoil, Kanyakumari District, as a Christian Religious Minority Educational Institution.

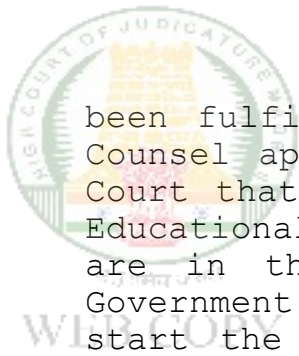
For Petitioner : Mr.S.C.Isaac Mohanlal
for Mr.K.Ragatheesh Kumar

For Respondents : Mr.V.Nirmalkumar
Government Advocate

O R D E R

The present Writ Petition has been filed challenging the order passed by the second respondent under which the request of the petitioner School for declaration as a minority institution has been rejected on the ground that the petitioner institution has not satisfied the eligibility criteria as found in G.O.Ms.No.375 (School Education -XI), dated 12.10.1998 and the G.O.Ms.No.214 (School Education -X2), dated 03.11.2008.

2.The learned Senior Counsel appearing for the writ petitioner pointed out that though both these G.O.s has been referred to the impugned order, the third respondent has not specifically mentioned what are all the qualifications, eligibility criteria that has not



been fulfilled by the petitioner institution. The learned Senior Counsel appearing for the petitioner brought to the notice of the Court that after the enactment of National Commission for Minority Educational Institutions Act, 2004, only those institutions which are in the pre-establishment stage have to approach the State Government or the Central Government for getting their permission to start the institution as a minority institution. As far as the present petitioner institution is concerned, this was started in the year 1981, as Pre-Primary School and it was upgraded as a fullfledged School in 1991. Hence, it is evident that when the petitioner institution approached the second respondent to get declaration of their minority status in the year 2011, it was an already established institution. He further, pointed out that as per Section 11 of the National Commission for Minortity Educational Institutions Act, 2004, the Commission is having the original authority for already established institutions for conferment of minority status for the educational institutions.

3.The learned Senior Counsel appearing for the petitioner also brought to the notice of this Court a judgment reported in **(2018) 6 SCC 772**. The relevant portion of the judgment is extracted here under:

"28.This judgment unequivocally holds that, insofar as existing minority institutions are concered, Section 11(f) clearly confers jurisdiction on NCMEI to issue a certificate regarding the status of the minority educational institution. We respectfully concur with the aforesaid view."

4.In the present case, the petitioner institution being a established institution, the Commission has exercised its powers as original authority and has granted minority status to the petitioner institution, vide order, dated 20.05.2014, and a certificate to the said fact has also been issued. In such circumstances, the order passed by the second respondent is completely without jurisdiction. The petitioner institution being declared as minority institution by the Statutory Commission, the State Government can no longer call upon the writ petitioner institutions, to prove their minority status.

5.With the above said observation, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)



Tmg

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.

To

1.The Secretary,
Government of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of Matriculation Schools,
College Road, Chennai- 600 006.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-25534[F] dated 14/06/2022)

+1 CC to M/s.SPL.GP. (SR-25570[F] dated 14/06/2022)

Order made in
W.P.(MD).No.3810 of 2012
13.06.2022

SS(23/06/2022) 3P 5C