



W.P.(MD).No.494 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.07.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.494 of 2013

and

M.P(MD)Nos.1,2 and 3 of 2013

Sree Arunachaleswarar Vidyasala Middle School,
Represented by its Secretary,
K.Vinayagamurthy.

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Virudhunagar District,
Virudhunagar.

2.Kalpothu Muthalipatti Nadar Uravinmurai,
(Registration No.26 of 2010),
Represented by its Secretary,
D.No.165, P.C.Complex,
Chithirakara Street,
Madurai-625 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the Proceedings of the first respondent made in Mu.Mu.No.6174/A4/2012 dated 24.12.2012 and quash the same in so far as the condiction clause in the said proceedings.



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For Petitioner : R.Murali
For R1 : Mr.V.Nirmal Kumar
Government Advocate
For R2 : Mr.J.Barathan
for Mr.T.R.Jeyapalam

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which the school Committee of the petitioner school was approved for a period of 3 years from 01.11.2012. Though the approval order is in favour of the writ petitioner school, the impugned order has been challenged on the ground that a condition has been imposed that the said approval order is subject to the result of the orders to be passed in W.P(MD)No.13164 of 2012.

2. According to the learned counsel for the petitioner, a society under the name and style of Kalpothu Muthalipatti Nadar Uravinmurai was registered at Madurai with Registration No.26 of 2010. Another society in the same name was registered at Virudhunagar with Registration No.107 of 2010. Registration of societies under the same name are prohibited under Section 9 of the Societies Registration Act, 1975. Hence, a writ petition was filed by the society with bearing



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Registration No.26 of 2010 in W.P(MD)No.13164 of 2012. The said writ petition was allowed directing deletion of Registration No.107 of 2010 in the same name. The said order was challenged by way of writ appeal in W.A(MD)No.363 of 2013. By way of an order, dated 08.09.2017, the writ appeal was disposed of granting liberty to the society with Registration No.107 of 2010 to modify it's name and to continue with the same registration number. Pursuant to the orders passed by the Division Bench of this Court, the society bearing Registration No.107 of 2010 approached the Registrar of Societies and got their name changed. Hence, according to the learned counsel for the petitioner, the writ petition referred to in the impugned order, dated 24.12.2012 has nothing to do with the functioning or administration of the petitioner school. Hence, the first respondent was not right in imposing such a condition, while granting approval to the school committee of the petitioner school.

3. The learned counsel for the petitioner further submitted that since the writ petition in W.P(MD)No.13164 of 2012 and W.A(MD)No. 363 of 2013 have been disposed of already, the first respondent may be directed to delete the said condition and pass fresh orders for further periods of school Committee.



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4. However, the learned counsel appearing for the second respondent herein representing society bearing Registration No.26 of 2010 had contended that the petitioner school is claimed to be administered by way of registered society bearing Registration No.5 of 2004. A reading of the bye laws would indicate that the society is bound by the decisions taken by Kalpothu Muthalipatti nadar Uravinmurai. The said Uravinmurai was functioning as an unregistered body, which later came to be registered bearing Registration No.26 of 2010. Hence, the second respondent herein alone is having a right to administer the said school and elect the members for the school committee of the petitioner school.

5. I have carefully considered the submissions made on either side.

6. The submissions made on either side will clearly indicate that there is a dispute between the petitioner school and the second respondent society as to the fact that whether society bearing Registration No.5 of 2004 or Registration No.26 of 2001 would have the control and management of the petitioner school. Whether Kalpothu Muthalipatti Nadar Uravinmurai will have the supremacy over the



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administration of the petitioner school or not is also in dispute. When there is a dispute with regard the educational agency, this Court cannot exercise its jurisdiction under article 226 in view of Section 53-A of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. Whenever there is a dispute as to who is the educational agency or with regard to the constitution of any educational agency, the said issue has to be decided only by a Civil Court having jurisdiction. The Civil Court has got jurisdiction to even make interim arrangement for running the private school. According to the learned counsel on either side, this school is in direct management of the first respondent herein Hence, I find that it is appropriate for the petitioner school as well as the second respondent herein to approach the competent Civil Court for redressal of their grievances to get a declaration, who is the competent educational agency to run the petitioner school. Either the petitioner school or the second respondent is at liberty to approach the competent Civil Court. In case, if both the parties failed to approach the Civil Court, the present position, namely direct payment system shall continue. However, the Civil Court is at liberty to make interim arrangement as and when the parties approach the Civil Court.



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7. With the above said observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
Internet : Yes / No

To

The District Elementary Educational Officer,
Virudhunagar District,
Virudhunagar.



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R.VIJAYAKUMAR ,J.

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Order made in
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