



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD) Nos.4579, 4582 and 4584 of 2020

and

**WMP(MD) Nos.3935, 3937, 3940, 3941,
3942, 3943 and 16017 of 2021**

J.R.Rajendran ...Petitioner in W.P(MD)No.4579 of 2020

D.Premalatha ...Petitioner in W.P(MD)No.4582 of 2020

T.Sam Rajasekar ...Petitioner in W.P(MD)No.4584 of 2020

Vs

1.The Chief Educational Officer,
Dindigul Education District,
Dindigul.

2.The Block Educational Officer,
Palani Block,
Palani, Dindigul District.

3.D.Devasahayam ... Respondents in all WPs

[R 3 impleaded vide order dated
06.01.2022 in WMP(MD)Nos.10568, 10616 and
10622 of 2020]

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the impugned proceedings issued by the second respondent in Na.Ka.No.928/Aa/2019, dated 27.11.2019 and the impugned proceedings of the first respondent in Na.Ka.No.12516/E1/2020, dated 27.01.2020 and quash the same as illegal.

For Petitioners : Mr.M.Ajmal Khan,
Senior Counsel for
M/s.Ajmal Associates
For Respondent : Mr.G.V.Vairam Santhosh,
Nos.1 and 2 Additional Government Pleader
For Respondent : Mr.T.A.Ebinezer

No.3

<https://hcservices.ecourts.gov.in/hcservices/>



ORDER

These writ petitions are filed challenging the proceedings of the first respondent calling for explanation in respect of the petitioners' participation in the election of a CSI Church in Palani.

2.The learned Senior Counsel for the petitioners submits that the the petitioners are working in Schools as Teachers. They participated in the election of a church. For having participated in the election the petitioners were issued with impugned proceedings calling for their explanation. Further, the learned Senior Counsel submits that the issue involved in these writ petitions is squarely covered by the decision of a Division Bench of this Court in Julius Jawahar Devakandan Vs The Chief Secretary to Government of Tamil Nadu, [WP(MD)Nos.10132 of 2015, etc., dated 29.10.2021]. Therefore, the impugned show cause notices are liable to be quashed.

3.The learned Additional Government Pleader appearing for the respondents submits that it is only a show case notice calling for the explanation of the petitioners. The petitioners can very well submit their explanation with supporting documents to the authority concerned, who shall consider the same and proceed further. Therefore, these writs petitions are not maintainable.

4.This Court paid its anxious consideration to the rival submission and perused the materials placed on record.

5.The petitioners are working as Teachers. They have participated in the election of a church, for that they were called for to offer their explanation. A Hon'ble Division Bench of this Court in similar issue in **Julius Jawahar Devakandan Vs The Chief Secretary to Government of Tamil Nadu**, [WP(MD)Nos.10132 of 2015, etc., dated 29.10.2021] has held as follows:

"6.As per Rule 14-A of the Tamil Nadu Government Servants Conduct Rules, 1964, the Government servants are prohibited from being a member of, or be otherwise associated with any organization which promotes or attempts to promote disharmony or feelings of enmity or hatred or ill-will between different religious, racial, language or regional groups or castes or communities on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever. As regards participation in purely religious activities, the freedom to profess and practice any religion is guaranteed under Article 25 of the Constitution of



India. The Government servants while they are free to profess and practice any religion in their private lives, should conduct themselves in public as to leave no room for any impression to arise that they do not subscribe to the secular philosophy of the State. The Church of South India Diocese is having its own rules, regulations or by-laws to govern the affairs and conduct of the teaching and non-teaching staffs employed in the Schools which are functioning under the Diocese. Rule 16(1) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974, prescribes the code of conduct for Teachers and non-teaching staffs employed in private schools. As per Rule 8 of the said Rules, no teacher or other person employed in a private school shall contest or participate in or canvass for any elections. Such restriction will not, however, apply to the teachers in respect of elections to the Teachers' Constituencies.

7.The second respondent, namely, the Secretary, the School Education Department filed a counter-affidavit wherein he has specifically stated that in the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Rules made thereunder, there is no provision dealing with the issue of the teaching and non-teaching staff contesting in an election and holding the posts in the third and fourth respondents organization. In these circumstances, the second respondent submitted that the contention of the petitioner to take action to forbear the staffs of the third and fourth respondents Educational Institutions from contesting in election and holding the posts in the third and fourth respondent's religious organization and to take appropriate action on the staff holding such posts based on the petitioners representation is not permissible for the reason that there is no such provision available in the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and Rules made thereunder enabling the Educational Authority to issue such direction."

6.From the above it is clear that there is no provision available in the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Rules enabling the educational authority to take action against its employees for having participated in the election process of a Church.



7. In view of the above, these writ petitions are allowed and the impugned proceedings are quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 Chief Educational Officer,
Dindigul Education District,
Dindigul.

2. The Block Educational Officer,
Palani Block, Dindigul District.

+2 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-432[F] dated
05/01/2022)

+1 CC to M/s.SPL GP (SR-349[F] dated 05/01/2022)

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MGJ(28.04.2022) 4P 6C