



**W.P.(MD)Nos.12856 & 11939 of 2018**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**WEB COPY**

**DATED: 01.07.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)Nos.12856 & 11939 of 2018**

**and**

**W.M.P.(MD)Nos.11757 to 11759 & 10894 to 10896 of 2018**

**In W.P.(MD)No.12856 of 2018**

Ferry G.Fernandez

... Petitioner

**Vs.**

1.The Director of School Education,  
College Road,  
Nungambakkam,  
Chennai-6.

2.The District Collector,  
Kanyakumari District,  
Nagercoil.

3.The Chief Educational Officer,  
Kanyakumari District,  
Nagercoil.

4.The District Educational Officer,  
Kulithurai,  
Kanyakumari District.

5.The Inspector of Police,  
Nithiravilai Police Station,



**W.P.(MD)Nos.12856 & 11939 of 2018**

Nithiravilai,  
Kanyakumari District.

6.J.Joseph Sunny

... Respondents

**Prayer:** Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned order as made in Na.Ka.No.3272/B2/2017, dated 09.04.2018 and consequential notice of affixing seal dated 30.05.2018 on the Holy Angels International School, Nambali, Nithiravilai Post, Kanyakumari District passed by the third respondent and subsequently, quash the same as illegal and arbitrary and consequently, direct the respondents 3 and 5 to remove the seal in the said Holy Angels International School forthwith.

For Petitioner : Mr.S.Palani Velayutham

For R1 to R5 : Mr.V.OM.Prakash  
Government Advocate

For R6 : Mr.S.C.Herold Singh

**In W.P.(MD)No.11939 of 2018**

The Correspondent,  
J.Joseph Sunny,  
Holy Angels International School,  
S/o.Joseph,  
Bejas Nivas, K.R.Puram,  
Thoothur Post,  
Nithiravilai,



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Kanyakumari District.

... Petitioner

Vs.

1.The Chief Educational Officer,  
Kanyakumari District,  
Nagercoil.

2.Ferry G.Fernandez

3.Anitha Sunny

4.Fr.Jeorme G.Fernandez ... Respondents  
(R2 to R4 are impleaded vide order dated 17.07.2018  
in W.M.P.(MD)No.13893 of 2018)

**Prayer:** Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent bearing Na.Ka.No.3272/A2/2017, dated 09.04.2018 and the consequent notice affixing a seal on the school dated 30.05.2018 and to quash the same and consequently, direct the respondent to open the seal so as to enable the petitioner to hand over the certificates to the students as well as to take out the vehicles of the school.

|                |                                          |
|----------------|------------------------------------------|
| For Petitioner | : Mr.S.C.Herold Singh                    |
| For R1         | : Mr.V.OM.Prakash<br>Government Advocate |
| For R3         | : Mr.L.Iden Sony                         |



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**COMMON ORDER**

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Heard the learned counsel on either side.

2. Both the writ petitions relate to the same subject matter. A School in the name and style of Holy Angel International School was being run by Gilbert Fernandez Memorial Educational Trust.

3. Dispute arose among the board of trustees. The petitioner in W.P.(MD)No.12886 of 2018 would assert that he was instrumental in the formation of Trust and that he inducted J.Joseph Sunny / petitioner in W.P.(MD)No.11939 of 2018 as trustee and nominated him as Correspondent of the Institution. This is denied by J.Joseph Sunny. I do not want to enter into the merits of the rival claims. Suffice it to say that O.S.No..146 of 2017 had been filed by Ferry G.Fernandez before the District and Sessions Judge of Kanyakumari District at Nagercoil. I.A.Nos.498 of 2017 and 1 of 2018 have also been filed seeking interim reliefs and the said I.As are still pending consideration. In the mean while, the fourth respondent passed the impugned order dated 09.04.2018 sealing the premises and directing that no further admission of students should be taken. Challenging the said communication, these Writ Petitions have been filed.



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4. I am more than satisfied that the continued sealing of the premises is not going to serve any purpose. Any building will require periodical maintenance. The building owner has the right to maintain his building in a proper condition. By sealing the premises, the right of the building owner is affected. That apart, it is not known as to whether the fourth respondent has the statutory power and authority to lock and seal the premises in question. It appears that the fourth respondent has invoked Section 29 of the Tamil Nadu Recognised Private Schools(Regulation) Act, 1973. But then, the said Act will apply only to the private schools as defined in Section 2(7) of the said Act. CBSE schools will not fall within the said definition. This is because, the petitioner has not been recognised by the competent authority under the said Act. Of-course, for establishing CBSE Schools, no objection is required from the State Educational Authority. But affiliation is granted only by the Central Government.

5. In these circumstances, the very act of sealing done by the fourth respondent appears to be without jurisdiction. It stands quashed. The



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fourth respondent is directed to de-seal the premises on 01.08.2022. The Principal District Judge, Kanyakumari District, Nagercoil is directed to dispose of I.A.Nos.498 of 2017 and 1 of 2018 on or before 22.07.2022. If I.A.Nos.498 of 2017 and 1 of 2018 have been posted to a later date, they will be advanced and taken up for hearing from 13.07.2022 onwards.

6. The learned counsel appearing for the petitioners inform the Court that they will extend their fullest co-operation for disposal of both I.A.Nos.498 of 2017 and 1 of 2018 by 15.07.2022. The learned trial Judge is requested to give a specific finding as to who is entitled to the possession of the petition mentioned premises.

7. With this direction to the learned trial Judge, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

**1.07.2022**

Index : Yes / No  
Internet : Yes/ No  
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***NOTE: 1.Registry to mark a copy of this order to Principal District Judge, Kanyakumari District, Nagercoil.***

**2. Issue Order Copy on 11.07.2022**



**W.P.(MD)Nos.12856 & 11939 of 2018**

To  
WEB COPY

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College Road,  
Nungambakkam,  
Chennai-6.
- 2.The District Collector,  
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Nagercoil.
- 3.The Chief Educational Officer,  
Kanyakumari District,  
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- 4.The District Educational Officer,  
Kulithurai,  
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- 5.The Inspector of Police,  
Nithiravilai Police Station,  
Nithiravilai,  
Kanyakumari District.



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G.R.SWAMINATHAN,J.

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01.07.2022