



W.P.No.11703 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.11703 of 2018
and
W.M.P.No.13677 of 2018

C.Chitra,
Assistant Elementary Educational Officer,
Natrampalli,
Vellore District.

...Petitioner

VS

1. The Registrar,
State Human Rights Commission,
Thiruvaramam No.143,
P.S.Kumarasamy raja Salai,
Greenways Road,
Chennai - 600 028.
2. C.Mahendiran,
S/o Chinapillai,
Secretary cum Correspondent,
Thiru Vi.Ka.Aided Middle School,
No.1, Thiru Vi.Ka.Nagar,
Maruthuvar Colony, Nethaji Nagar (North),
Vaniyambadi - 635 752,
Vellore District.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 1st respondent in SHRC Case No.6867 of 2014 by order dated 25.04.2018 and to quash the same forbearing the respondents to proceed further pursuant to the order passed by the 1st respondent.

For Petitioner : Mr.Muralikumaran,
Senior Counsel
for Ms.S.Vaitheeswari

For Respondents : No appearance for R1
Mr.D.Balachandran for R2

ORDER

This Writ Petition has been filed challenging the order passed by the 1st respondent in SHRC Case No.6867 of 2014 by order dated 25.04.2018, by which, the State Human Rights Commission has directed the Government to pay a compensation of Rs.2 lakhs to the 2nd respondent Mahendran and to recover the same from the petitioner and also directed the Asst.Elementary Educational Officer, Natrampalli, to provide the benefits given by the Government such as free books, note books, uniform free noon-meal to the students of the complainant School for the period 2014-15 and thereafter, and



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also to forbear the respondents from proceeding further pursuant to the order passed by the 1st respondent.

2. The brief facts of case of the petitioner is that while the petitioner was discharging her duty as Assistant Elementary Educational Officer, Natrampalli, Vellore District from 24.01.2014 till 31.05.2017, the 2nd respondent who claimed as the School Secretary of Thiru.Vi.Ka.Aided Middle School situated at Chennampettai, Vaniyampadi, approached her for releasing Government Welfare Schemes to his school in the form of education books, note books, uniforms, chappal, geomatric box, bags and mid-day meals for the said school and also to provide the salary grant to the teachers in charge of the above said school and to validate the shifting of school to the new premises where he claimed that the school was functioning, i.e., at Door No.1, Thiru.Vi.Ka.Nagar, Maruthuvar Colony, Nethaji Nagar North, Vaniyampadi, Vellore. The 2nd respondent had started unrecognised school and without obtaining any orders from the authorities concern cannot claim the benefit which was not intended for and the petitioner rejected the claim of the 2nd respondent. However, a complaint was preferred by the 2nd respondent before the 1st respondent/State Human Rights Commissioner, as if the petitioner has committed Human Rights violation in not granting the relief to



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the School run by him illegally and the Commissioner had entertained the complaint and passed orders against the petitioner to implement the Government Scheme to an unrecognised and unauthorized school run by the 2nd respondent and imposed penalty against the petitioner. Hence, the present writ petition seeking the aforesaid relief.

3. (i) Learned counsel for the petitioner would submit that during 2014-2017, the petitioner inspected 49 schools under her administrative control regarding the functioning of the school and distribution of Government welfare schemes to the schools and verified whether those schemes are reached the beneficiaries properly. At that time, the 2nd respondent claiming as School Secretary of Thiru.Vi.Ka.Aided Middle School approached the petitioner for releasing Government welfare schemes to his school situated at Chennampettai, Vaniyampadi, and also to validate the shifting of school to the new premises now functioning at Door No.1, Thiru.Vi.Ka.Nagar, Maruthuvar Colony, Nethaji Nagar North, Vaniyampadi, Vellore. Originally, one James M.Selvadoss is the Correspondent of the said school situated at Door No.253, community Hall Kosar Street, Pillayar Koil Street, Chennampettai, Vaniyampadi Municipality, Vellore District. The 2nd respondent has clandestinely started a new school in the same name and started to function



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from Maruthuvar Colony, Nethaji Nagar, Vaniyampadi, without getting approval from the Government.

(ii) Learned counsel would further submit that that the 2nd respondent filed a civil suit in O.S.No.63 of 2013 on the file of the District Munsif Vaniyampadi and obtained an exparte order without notice to the respondent and claimed rights for the above school which originally functioned at Chennampettai, Vaniyampadi. The 2nd respondent also filed a civil suit by impleading the educational officers as the respondents and file a suit for permanent injunction and mandatory injunction in O.S.No.63/2013 against the Headmaster and the petitioner and obtained an exparte order treating the petitioner as exparte that he should not be prevented from shifting the school temporarily from Chennampetti to Maruthuvar Colony. Learned counsel would further submit that as per the Private School Regulation Act and the Rules, the Civil Court has no jurisdiction to deal with the matters which are within the ambit of authorities constituted under the Act. The petitioner has filed a petition to set aside the exparte order passed in O.S.No.63/2013 and the same was pending. Insofar as shifting of schools are concerned, the following rules should be followed.

(i) The existing schools and the shifting place



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should be situated in the same vicinity of the village or town and it should be in the very same ward and the distance between the existing school and the shifting place should be within 1 kilometer radius and easily accessible to the student.

(ii) There should not be any traffic inconvenience or natural inconvenience to these places

(iii) The students studied in the old school should also study in the name place and during the shifting the student's attendance register in the class wise with details of male and female children should be sent to the authorities.

(iv) The teachers should transfer from the old place to the new place.

(v) For transfer of teachers a written consent should be obtained from the authorities.

(vi) While shifting the school to the new place the requisite infrastructure specialities and sanitary facilities and water facilities should be in place.

(vii) All the records and infrastructure facilities should be transferred to the new place.

(viii) Stability ad sanitary certificate and NOC from Fire service should be obtained for the new building.

(ix) NOC should be obtained from the



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headmasters of the adjoining schools with clear details of the students particulars class wise and the teachers working the school should be obtained.

(x) The recognition order of the school to be shifted should be sent to the authorities.

(xi) The details of the permanent teachers of the school and whether any posts are vacant should be intimated to the authorities.

(xii) If there are any vacancies existing then the particulars of such vacancies should be given.

(xiii) The school authorities should obtain the recommendation and opinions from the authorities who inspected the school and sent it to the Director of Elementary Education and obtain orders from him before it is shifted.

(iii) Learned counsel would further submit that the 2nd respondent, without adhering to any of the school rules has commenced a School in the new place and seeking government aid for the said new school started in the very same name of old recognised School. Further, since there was a huge protest by the general public for closing the school abruptly, on intimation, the petitioner inspected the old recognized school situated at Chinnanpettai and recommended for the closer of new school at Maruthuvar Colony, Nethaji Nagar, Vanaiyampadi, after ascertaining the ground situation and found that



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the new school is not a recognised one and was started without any permission for shifting and also without obtaining an order to open the school at Chennapettai. The 2nd respondent also filed a writ petition in W.P.No.34193/2014 seeking a direction to the 3rd to 5th respondents to implement the Government welfare schemes to the newly started school.

(iv) The petitioner has also filed a detailed counter and the said writ petition is still pending. Another writ petition in W.P.No.30573/2014 was also filed to distribute the materials to the students and an order was obtained suppressing the material facts that the said school is not a recognised school. In the meantime, the 2nd respondent has filed a contempt petition No.732/2015, in which, this Court modified the earlier order and closed the contempt petition with a direction to the respondent to pass a speaking order and intimate the petitioner therein as to the exact state of affairs as to whether the petitioner shall be entitled for supply of free books etc. in the light of the pendency of another writ petition. In pursuant to which, a detailed order was passed on 08.07.2015 rejecting the claim of the 2nd respondent. Subsequently, the Execution Petition in E.P.No.45/2014 in O.S.No.63/2013 was dismissed by the Addl/District Munsif, Vaniyampadi, by order dated 28.08.2017. A criminal case was also filed by the government officials in



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C.C.No.119/2015 for offence under section 341, 294(b), 323 an 506(i) IPC before the Vaniyampadi Town Police Station, which was referred to as 'mistake of facts' after conducting enquiry.

(v) Learned counsel for the petitioner would further submit that the 2nd respondent was constantly giving trouble to the petitioner from discharging her official duties and threatening the petitioner to budge his illegal demands. The 2nd respondent moved the State Human Rights Commission in SHRC case No.6867 of 2014 by preferring a complaint against the petitioner as if she has committed Human Rights violation. The 1st respondent had entertained the complaint and passed an order to implement the Government scheme to an unrecognized and unauthorized school run by the 2nd respondent. Therefore, he would pray to allow the writ petition.

4. (i) Per contra, the learned counsel appearing for the 2nd respondent would content that the 2nd respondent is the Correspondent of Thiru. Vi.Ka.Goverment School. Mr.M.Selvadoss was the first Correspondent of the said School and after his death, the school was transferred to MJM Trust and he was appointed as the Correspondent. Further, in the civil suit in O.S.No.100/2003, the 2nd respondent was declared as the Secretary of MJM Trust and Secretary/Correspondent of the School. The old school was not fit



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for habitation as it was 100 years old building and in dilapidated condition and further a Civil Suit was filed by the original owners and obtained permanent injunction from putting up any construction. Therefore, the 2nd respondent filed O.S.No.64/2013 and obtained injunction from disturbing the functioning of the School in the new premises. There is no huge protest made by the general public for closing the school abruptly as contended by the petitioner.

(ii) Learned counsel would further submit that the 2nd respondent filed a writ petition in W.P.No.30573/2014, in which, an order dated 08.01.2015, was passed directing the petitioner to comply with the direction dated 08.10.2014 and distribute all the materials to the students to which they are entitled to within a period of three weeks from the date of receipt of a copy of the said order. Since the same was not obeyed by the petitioner, a contempt petition was filed and by order dated 10.04.2015, the contempt petition was closed with a direction to the petitioner herein to pass a speaking order and intimate the 2nd respondent herein as to the exact state of affairs as to whether the 2nd respondent shall be entitled to supply of free books etc. in the light of the pendency of another writ petition and the matters are connected therewith within two weeks from the date of receipt of a copy of the said order. The



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petitioner voluntarily avoided to provide any benefits to the 2nd respondent school even when her higher officials had directed her to do the same. Thus, the 2nd respondent approached the Human Rights Commission and the Commission had passed the order punishing the petitioner and therefore, the writ petition filed by the petitioner does not hold any merits and the same is liable to be dismissed.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The petitioner was working as Assistant Elementary Educational Officer and was incharge of the functioning of the schools and distribution of Government welfare schemes under her control. The 2nd respondent claiming as School Secretary of Thiru.Vi.Ka.Aided Middle School approached the petitioner for releasing Government welfare schemes to his school situated at Chennampettai, Vaniyampadi, and also to validate the shifting of school to the new premises functioning at Door No.1, Thiru.Vi.Ka.Nagar, Maruthuvar Colony, Nethaji Nagar North, Vaniyampadi, Vellore. According to the petitioner, the 2nd respondent was not the Correspondent of Thiru.Vi.Ka.Aided Middle School. The aid was given by Tamilnadu Government for the said School. Originally, James N.Selvadass was the



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Correspondent of the said School and after his death, the 2nd respondent closed the said school without any intimation to the Government and started a new school at Thiru.Vi.Ka.Nagar, Maruthivar Colony Nethaji Nagar, Vaniyambadi without getting approval from the Government.

7. It is pertinent to point out that as per Section 12 of Private Schools Regulation Act, 1973, the Management is liable to get prior approval from the government for the change of management. No rule is provided to give government scheme implementation for unapproved schools. Hence, the petitioner had refused to give the welfare scheme to the 2nd respondent school. There is no provision to start classes from L.K.G. U.K.G and 1st standard English medium in the Aided School, however, the 2nd respondent made advertisement in pamphlets and notice inviting admission of students in the school, both Tamil and English Medium, like Private Nursery School having classes of L.K.G, U.K.G and 1st standard. Thiru.Vi.Ka. Aided Middle School was running with only two class rooms constructed with M.P. Constituency funds building at Chennampet, Vaniyambadi. However, according to the petitioner, the 2nd respondent had locked the class rooms illegally. Hence, a request was made to DEEO to take action against the 2nd respondent and the same is pending.



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8. From the records, it is seen that the distance between the old and new school is more than 5 kms. The 2nd respondent had shifted the school out of Municipal limit. Therefore, the petitioner is not having jurisdiction over the new school where the petitioner had started a new school. Further, no communication letter was sent by the Vaniyambadi Municipality to the petitioner regarding permission for shifting of the school. It is the duty of the petitioner to forward an application for approval to the Government for shifting the school and no approval was given to the said school till date.

9. The 2nd respondent filed a writ petition in W.P.No.30573/2014 to provide educational benefits and free books to the students and the same was ordered by this Court and the petitioner complied with the order with respect to the students studying in Thiru.Vi.Ka. Aided Primary school, Fort, Vaniyampadi. The petitioner filed contempt petition against the same which was closed observing the fact that "in the light of pendency of another writ petition and the matters are connected therewith, the respondent (petitioner herein) shall pass appropriate orders in compliance of the orders within a period of two weeks". In pursuant to which, the petitioner had also passed a detailed order rejecting the claim of the 2nd respondent stating that the 2nd respondent school is not eligible. The 2nd respondent is running a Private



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English Medium School at Thiru.Vi.Ka.Nagar, Maruthuvar Colony, Nethajinagar, Vaniyambadi and the students are studying in the English Medium school.

10. The Government welfare schemes cannot be implemented to the unrecognized or unauthorised school. The petitioner has questioned the same. The petitioner being an official of the Education Department is not against the implementation of the Government welfare scheme, at the same time, she is aware that the welfare schemes of the Government should be properly implemented. Since the petitioner found that the 2nd respondent School is not an approved school, she rejected the application of the 2nd respondent seeking to provide the welfare scheme to his school. The petitioner has sent three letters dated 30.06.2016, 29.07.2016 and 07.09.2016 to the District Elementary Educational officer and copies were marked to the 2nd respondent herein, Chief Educational Officer, Vellore District, District Collector, Vellore and Director of Elementary Educational Officer regarding the illegal functioning of the 2nd respondent school and recommended to close the functioning of the 2nd respondent school which is being run without any recognition and objections were also raised by five other adjoining schools. The finding of the commission that the petitioner has not obeyed the orders of



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the superior is contrary to the facts that there is no order directing the petitioner to obey in favour of 2nd respondent. Thus, the act of the petitioner does not amount to human rights violation.

11. In view of the above discussion, we are of the view that the petitioner has not committed any violation of human rights and she had acted in the discharge of her official duty. Therefore, the order passed by the 1st respondent in SHRC Case No.6867 of 2014 dated 25.04.2018 is hereby set aside. Accordingly, the Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

(J.N.B., J.) (N.M., J.)
30.11.2023

vsi

Index : Yes / No

Internet : Yes / No

To

The Registrar,
State Human Rights Commission,
Thiruvarangam No.143,
P.S.Kumarasamy raja Salai,
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