



WEB COPY



W.P.No.16148 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.16148 of 2023
& W.M.P.Nos.15537, 15540, 17495
and 20385 of 2023

Gajalakshmmi Karan

... Petitioner

Vs.

1.The Principle Secretary,
School Education,
Fort St.George, Chennai-600 009.

2.The Directorate of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai-600 006.

3.The Secretary-CBSE (Head Office)
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi-110 092

4.The Regional Officer-CBSE,
New No.3, Old No.1630 A,
"J" Block, 16th Main Road,
Anna Nagar West, Chennai-600 040

5.Sri BS Mootha Girls Senior Secondary School,
Represented by its Correspondent
Mr.Kishan Srisrimal Jain,



W.P.No.16148 of 2023

Door No.80, Brindavan Street,
West Mambalam, Chennai-600 033.

WEB COPY

6.Sri BS Mootha Girls Senior Secondary School,
Represented by its Principle
Mrs.Swarnalatha Gopalakrishnan,
Door No.80, Brindavan Street,
West Mambalam, Chennai-600 033.

7.Sri BS Mootha Girls Senior Secondary School,
Represented by its Administrative Officer
Mr.Raja Ganapathy,
Door No.80, Brindavan Street,
West Mambalam, Chennai-600 033.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to consider the petitioner's representation dated 10.04.2023 and consequently directing the sixth respondent to permit the petitioner's daughter S.Kanishka to continue her education in the said Sixth respondent's school as per the provisions of Right of Children to Free and Compulsory Education Act.

For Petitioner : Mr.M.Arvind Subramaniam
Senior Counsel Asst. by Mr.N.Manikandan
For Respondent : Mr.V.Manoharan
Additional Government Pleader
for R1 and R2

Mr.G.Nagarajan
for R3 and R4

Mr.M.Velmurugan
for N.Nageshwara Rao for RR5 to 7



ORDER

The petitioner herein sought an admission to her minor daughter in Class V in the 6th respondent school. This Court Vide its interim order dated 24.05.2023 directed the respondents 6 and 7 to admit the child in the School of the respondents 6 and 7 under the Right of Children to Free and Compulsory Education Act.

2.The learned counsel for the respondents 5 to 7 made a statement that the petitioner's institution is a minority educational institution and it is exempted from the purview of the Act in terms of the ratio in *Pramati Educational & Cultural Trust & Others vs. Union of India & Others* [AIR 2014 SC 2114]. The concluding paragraph of the said judgment reads as below:

*"47. In the result, we hold that the Constitution (Ninety-third Amendment) Act, 2005 inserting clause (5) of Article 15 of the Constitution and the Constitution (Eighty-Sixth Amendment) Act, 2002 inserting Article 21A of the Constitution do not alter the basic structure of framework of the constitution and are constitutionally valid. We also hold that the 2009 Act is not ultra vires Article 19(1)(g) of the Constitution. **We, however, hold that the 2009 Act insofar as it applies to minority schools, aided or unaided, covered under Clause (1) of Article 30 of the Constitution is ultra vires the Constitution.** Accordingly....."*



3.Mr.M.Arvind Subramaniyam, learned Senior Counsel assisted by Mr.N.Manikandan, the learned counsel for the petitioner would submit that inasmuch as the petitioner's child is admitted in the school, she may not be removed in the middle of the academic year and that the child's case may be sympathetically considered.

4.The learned counsel for the respondents 5 to 7 would now submit that the petitioner has two children and both of them were admitted during 2020 in the 6th respondent school and the elder one was in class X and the younger one was in Class IV. Further, the petitioner has also not paid the tuition fee for the last two years and she has also created lot of animosity vis-a-vis the payment of tuition fees.

5.It may be that the petitioner might have entertained some misconception about her right but, in the process education of the child is caught in the crossfire. It is made clear that inasmuch as the respondents 5,6 and 7 are minority educational institutions, the petitioner cannot seek a seat for her daughter now in Class V as a



W.P.No.16148 of 2023

matter of right.

WEB COPY

6.Apparently, there are issues of arrears of tuition fees to be paid. This Court, merely advices the petitioner to look to the future of her child, rather than creating issues out of non-issues.

7.The Writ Petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

08.08.2023

Tsg

Index : Yes / No

Neutral citation : yes/no

N.SESHASAYEE, J.



W.P.No.16148 of 2023

Tsg

WEB COPY

To

1.The Principle Secretary,
School Education,
Fort St.George, Chennai-600 009.

2.The Directorate of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai-600 006.

3.The Secretary-CBSE (Head Office)
Shiksha Kendra, 2, Community Centre,
Preet Vihar, Delhi-110 092

4.The Regional Officer-CBSE,
New No.3, Old No.1630 A,
"J" Block, 16th Main Road,
Anna Nagar West, Chennai-600 040.

W.P.No.16148 of 2023
and W.M.P.Nos.15537, 15540,
17495 and 20385 of 2023

08.08.2023