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W.P.No.28825 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.P.No.28825 of 2023

P.Ravi

... Petitioner

Vs.

1. Tamil Nadu Private Schools Fee
Determination Committee,
Perasiriyar Anbazhagan Kalvi Valagam,
College Road, Nungambakkam,
Chennai – 600 006.
2. The Secretary to Government,
School Education Department,
Fort St. George, Chennai – 600 009.
3. The Regional Officer, Chennai Region,
Central Board of Secondary Education,
New No.3, Old No.1630A, 'J' Block,
16th Main Road, Anna Nagar West,
Chennai – 600 040.
4. Chettinad Vidhayashram,
Rep. By it's Correspondent/Secretary,
Under ageis of Kumararaja,
Muthiah School of Traditional Arts and Crafts,
No.2, Chettinad House, Greenways,
R.A. Puram, Chennai – 600 028.

... Respondents



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Prayer : Petition has been filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for records of the first respondent culminating in the proceedings/undated letter of 1st respondent closing the representation of petitioner dated 02.08.2023 and quash the same and direct the 1st respondent to consider the representation of petitioner dated 02.08.2023, afresh on merits and in accordance with law after affording reasonable opportunity of personal hearing to the petitioner.

For Petitioner : Mr.K.Shakespeare

For Respondents : Ms.S.Kaavya for R1
: Mr.Stalin Abhimanyu
Additional Government Pleader for R2

ORDER

[Order of the Court was made by R.SURESH KUMAR, J.]

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for records of the 1st respondent culminating in the proceedings/undated letter of 1st respondent closing the representation of the petitioner dated 02.08.2023 and quash the same and direct the 1st respondent to consider the representation of petitioner dated 02.08.2023, afresh on merits and in accordance with law after affording reasonable opportunity of personal hearing to the petitioner.

2. As per the affidavit averments made in support of this petition, the petitioner claimed that, he had approached the 4th respondent School



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for admission of the two wards of the petitioner for 8th Standard and 4th Standard respectively, for which, according to the petitioner, the School claimed a sum of Rs.2,00,000/- and Rs.1,25,000/- respectively as capitation fee, which, according to the petitioner, he had paid to an employee one Karuppiah of the 4th respondent School.

3. That apart, the petitioner claimed that, for both the wards separately admission fee of Rs.21,600/- and Rs.21,425/- had been paid, for which the School had given receipt dated 16.02.2022.

4. The petitioner at that time when was working at Delhi since was about to be transferred to Chennai, in anticipation of transfer only he had made arrangements to get admission in the 4th respondent School. However, his transfer proposal was stopped, therefore he has not been transferred from Delhi to Chennai, hence the necessity of admitting the wards in the 4th respondent School at Chennai did not arise. Hence he wanted to get back the fee as well as the alleged capitation fee paid by the petitioner, for which, the petitioner claimed to have sent email, but since there has been no response from the 4th respondent School, the petitioner had given a complaint to the 1st respondent i.e., Tamil Nadu Private Schools Fee Determination Committee.



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5. The said Committee, having considered the said complaint given by the petitioner, had given its reply by communication undated which the petitioner has received on 17.08.2023.

6. Challenging the said communication given by the 1st respondent, the present writ petition has been filed with aforestated prayer.

7. Heard Mr.K.Shakespeare, learned counsel appearing for the petitioner, who would submit that, as per the provisions of the Tamil Nadu Educational Institutions (Prohibition of Collection of Capitalisation of Fee) Act, 1992 and the Tamil Nadu Schools (Regulation of Collection of Fees) Act, 2009, the capitation fee since has been prohibited and whatever excess that has been collected by any School other than what has been prescribed by the Fee Determination Committee that can since be construed as capitation fee, the said amount of Rs.2,00,000/- + Rs.1,25,000/- totally Rs.3,25,000/- paid by the petitioner has to be returned back by the 4th respondent School.

8. Since the 4th respondent School did not come forward to accede



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to the request made by the petitioner, he had given a complaint to the 1st respondent/Fee Determination Committee, which, instead of entertaining the complaint and to enquire the matter by summoning the 4th respondent School, has given the reply through the impugned communication stating that, the 1st respondent did not determine any fee for the 4th respondent School, therefore the School against whom complaint was given since is affiliated to Central Board of Secondary Education, the Fee Determination Committee has nothing to do with the complaint given by the petitioner. By stating the said reasons the said complaint stood closed, he contended.

9. Therefore the learned counsel would contend that, as per the provisions of the said Act, the Fee Determination Committee is empowered to look into the complaint and enquire the matter to redress the grievance of the petitioner, which power and jurisdiction vested with the 1st respondent Committee since has been abdicated by stating the reasons in the order impugned it is liable to be interfered with, he contended.

10. We have considered the said submissions made by the learned



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counsel appearing for the petitioner and have perused the materials placed before this Court.

11. It is only an affidavit averment made by the petitioner that, a capitation fee of Rs.3,25,000/- had been paid to the 4th respondent School.

12. However, no documents or no correspondences whatsoever had been produced by the petitioner. That apart, it is the specific averment of the petitioner that, the said capitation fee had been paid to one Karuppiah who claimed to be the employee of the 4th respondent School by cash.

13. When such kind of allegations are made, first of all the petitioner has to establish and prove before a Court of law that, he had paid the said amount of Rs.3,25,000/-.

14. For establishing such a fact, the forum available for the petitioner is Civil Court where the petitioner can initiate a litigation and establish that the said amount has been paid to the employee of the School thereby the School has received it and therefore they owed to pay the said amount back to the petitioner.



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16. Moreover, it is the fact to be noted that the 1st respondent/Fee Determination Committee has not at all determined any fee to the 4th respondent School, when that being so, even the fee collected i.e., the tuition fee, not the alleged capitation fee, whether is excess or not itself cannot be concluded by the Fee Determination Committee, which in fact has been stated as the reason by the 1st respondent in the said communication which is impugned herein.

17. However, it is to be noted that, insofar as the tuition fee is concerned, the fee receipt has been given by the School for a sum of Rs.21,600/- for one ward and Rs.21,425/- for another ward of the petitioner for which a photocopy of the receipts have been filed in the typed set of documents.

18. If at all the petitioner is entitled to get back the money, the tuition fee paid by him can be requested to be refunded with the School and it is for the School to take a call and whether the said amount can be



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returned back or not to be decided in accordance with the rules of the School as to how the School fee/tuition fee paid by the wards to be refunded in case the student did not continue the course or study in the School concerned.

19. Therefore for such a relief also the 1st respondent/Fee Determination Committee does not have any role to play.

20. When that being the so, the reasons stated by the 1st respondent /Committee in the order impugned is absolutely justifiable, therefore it does not warrant any interference from this Court. For the aforesaid reasons, this Writ Petition has to fail, hence it has to be dismissed, accordingly it is dismissed. However, there shall be no order as to costs.

[R.S.K., J.] [K.B., J.]
04.10.2023

Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
Sgl

To

1.Tamil Nadu Private Schools Fee



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Determination Committee,
Perasiriyar Anbazhagan Kalvi Valagam,
College Road, Nungambakkam,
Chennai – 600 006.

- 2.The Secretary to Government,
School Education Department,
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