



W.P.(MD)No.13262 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.13262 of 2009

and

M.P.(MD)Nos.2 of 2009 and 3 of 2010

Hajima Ka.Nafiza Beevi
Manager & Correspondent,
Hameem Middle School,
Door No.135, Athiyadi East Street,
Melapalayam Post,
Tirunelveli – 627 005.

... Petitioner

versus

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department,
Fort St. George,
Chennai.
2. The Director of Elementary Education,
College Road,
Chennai – 6.
3. The District Elementary
Educational Officer,
Tirunelveli – 1.



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4. The Assistant Elementary
Educational Officer,
Palayamkottai (Urban)
Tirunelveli District.

5. M.N.Mydeen Fatima Beevi
(R5 impleaded vide order dated
12.02.2010 in M.P.(MD)No.1 of 2010)

6. Asiyal Beevi

7. Sithi Marliya

8. Jamal Beevi

9. Sithi Meharuban

10. Sharimila
(R6 to R10 impleaded vide order
dated 09.04.2013 in M.P.(MD)No.
1 of 2013)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records of the order passed by the 3rd respondent in Na.Ka.No.6213/அ.2/2009 dated 30.11.2009 and the consequential order of the 4th respondent dated 05.12.2009 in Na.Ka.No.996/அ.1/2009 and quash the same.



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For Petitioner : Mr.N.Dilip Kumar
For R1 to R4 : Mr.S.Shaji Bino,
Special Government Pleader
For R5 : Mr.M.P.Senthil
For R6 to R10 : Mr.G.Prabhu Rajadurai

ORDER

This writ petition is filed as against the order passed by the third respondent in Na.Ka.No.6213/அ.2/2009 dated 30.11.2009 and also the consequential order passed by the fourth respondent in Na.Ka.No.996/அ1/2009 dated 05.12.2009.

2. The third respondent has passed the impugned order dated 30.11.2009, by taking over the Management and also ordered for direct payment to the staffs attached to the petitioner School.

3. The Hameem Middle School was established in the year 1927 by one Mohammed Yousuf Lebbai. The petitioner and the respondents 5 to 10, claiming to be the descendants of Mohammed Yousuf Lebbai,



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are administering the School on rotation basis for every seven years,
based on an agreement dated 25.03.1992.

4. It appears that there is some dispute in handing over the administration on the expiry of seven years and civil suits have also been filed between the parties. Since there was no proper administration in the School in view of the dispute between the petitioner and the respondents 5 to 10, the Department has issued the impugned order for smooth functioning of the School.

5. When the matter came up for hearing on 28.04.2022, The learned counsel on either side submitted that there is a dispute between the family members and if this Court provides an opportunity, the dispute could be settled amicably.

6. Considering the fact that the dispute is between the family members with regard to the administration of the School and that



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School was in existence from the year 1927, this Court, by order dated 28.04.2022, appointed Mr.S.Meenakshi Sundaram, learned Senior Counsel as Mediator.

7. On the efforts taken by the Mediator, it appears that the petitioner and the 5th respondent have entered into a compromise and it was also reduced into writing by a joint compromise memo dated 25.04.2023 and it was duly signed by the counsel for both sides, petitioner as well as the 5th respondent. The terms of compromise are as follows:

“(a) The petitioner, the 5th respondent and both of their legal heirs shall be permitted to run the subject school on rotation basis of every 5 (five) Academic years in the interest of students, teachers and smooth functioning of the school or on any other orders passed by this Court for the smooth functioning of the School.

(b) The petitioner, the 5th respondent and both of their legal heirs should take necessary steps to construct new class rooms at the earliest time, till such period, the 5th respondent and her legal heirs should undertake to pay



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the rent of Rs.6,000/- (Rupees six thousand only) per month, without any default for using petitioner's daughter's (Mrs.Sithinarghees) residential house, i.e. in the 1st floor area measuring, 475 sq. ft.

(c) The compromise affidavit is binding both the legal heirs of the petitioner and the 5th respondent.

(d) The Management period shall be in accordance with Academic Calendar, i.e. from June to May and on every respective 30th of April month, the management is to be rotated and handed over.”

8. In view of compromise arrived at between the parties, the order passed by the 3rd respondent in Na.Ka.No.6213/ 2/2009 dated 30.11.2009 and the consequential order passed by the 4th respondent in Na.Ka.No.996/ 2/2009 dated 05.12.2009 are hereby set aside and the writ petition is allowed accordingly. The compromise memo shall form part of the records.

9. The fifth respondent shall run the School, as per the terms of compromise dated 25.04.2023, by giving due responsibility in the



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administration of the School and also ensure that the School is administered in a peaceful and effective manner with a sole object to provide proper education to the students, who are studying in the School. If the respondents 6 to 10 are having grievance with regard to the right of school administration, they shall work out their remedy before the concerned Forum. No costs. Consequently, connected miscellaneous petitions are closed.

07.06.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The Secretary to Government,
Education Department,
Fort St. George, Chennai.
2. The Director of Elementary Education,
College Road,
Chennai – 6.



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