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W.P.(MD)NO.3012 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.3012 of 2022

N.Lakshmanan

... Petitioner

Vs.

1. The Principal Secretary,
Higher Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Collegiate Education,
D.P.I.Campus, College road,
Nungambakkam,
Chennai – 600 006.
3. The Joint Director of Collegiate Education,
Madurai Region, Madurai.
4. The District Collector,
Madurai District.
5. The District Revenue Officer,
Madurai, Madurai District.
6. The Revenue Divisional Officer,
Tiruparankundram,
Madurai District.
7. The Tahsildar,
Tiruparankundram,
Madurai District.



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8. Narayanan Chettiar Trust,
Rep. by its Trustee,
14, Vallabai Road,
Chockikulam, Madurai -2.

9. Saraswathi Narayanan College,
Rep. By its Secretary,
Perungudi, Madurai – 22.

10. T.Narayanan

11. R.Subramanian

12. A.P.Kalimuthu

13. K.Panchavarnam

14. Jaya Vairavan Engineering Co. Pvt. Ltd.,
Rep. by its Managing Director A.P.Kalimuthu,
Sakthi Illam, Door No.10/22,
Vilathi Kulam Road, Perunali, Kamuthi Taluk,
Ramanathapuram District – 623 115.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent No.1 and 2 to appoint a Special Officer under Section 14-A of the Tamil Nadu Private Colleges (Regulation) Act, 1976 to manage the affairs of the 9th respondent college in view of the mismanagement of the properties of the college by the respondent No.8 and for violating Rule 17 of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 and to restore the possession of the lands of the College which were unlawfully alienated in favour of respondent No.11 to 14 within the time period stipulated by this Court.



For Petitioner : Mr.T. Lajapathi Roy
For R-1 to R-7 : Mr.V.Om.Prakash,
Government Advocate.

For R-8 to R-10 : Mr.V.R.Shanmuganathan

For R-12 to R-14 : Mr.J.Barathan,
for Mr.T.R.Jeyapalam.

* * *

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for respondents 1 to 7 and the learned Standing counsel appearing for respondents 8 to 10 and the learned counsel appearing for respondents 12 to 14.

2. The writ petitioner and the father of the 10th respondent are brothers. Their father Late Narayanan Chettiar formed “ Narayanan Chettiar Trust ” in the year 1957. The said trust established Saraswathy Narayanan College in the year 1966. Alleging that the properties endowed in favour of the college have been unlawfully alienated and seeking declaration that the alienations are null and void, the petitioner herein filed W.P.(MD)No.13833 of 2021. The matter was heard at length



and by a detailed order, a learned Judge of this Court allowed the writ petition on 25.10.2021. Paragraph No.20 of the said order reads as follows:-

“ 20. This leads to the impugned order. The impugned order rejects the petitioner's representation on the sole ground that the relevant properties were not included in the statement submitted under Rule 17. For various reasons set out above, the said interpretation of Sections 26 and 27 read with Rules 17 and 18 is patently erroneous. Therefore, the impugned order is unsustainable and is hereby quashed. As a corollary, the educational authorities concerned are directed to initiate appropriate action in relation to the violation of Sections 26 and 27 of Act 19 of 1976 by the Educational Agency, namely, the sixth respondent. On account of the conclusion that the properties dealt with under the First, Second and Third Endowment Deeds are properties of the College, the private respondents are restrained from alienating, encumbering or otherwise dealing with the said properties. In addition,



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importantly, action should be taken to restore possession of these assets to the College.”

3. Aggrieved by the same, the contesting respondents herein have filed W.A.(MD)No.2194 of 2021. The said writ appeal is still pending. No interim order has been granted therein.

4. At this stage, the present writ petition has been filed for directing the Government to appoint a Special Officer under Section 14-A of The Tamil Nadu Private Colleges (Regulation) Act, 1976. In the affidavit filed in support of the writ petition, the petitioner has furnished additional particulars. It is stated that apart from the alienations referred to in W.P.(MD)No.13833 of 2021, the petitioner has subsequently come across few more instances of alienation of the college properties.

5. According to the petitioner, if instances of mal-administration are brought to the notice of the Government, action will have to be taken under Section 14-A of the Act for taking remedial action.



6. Notice was ordered in the writ petition. The contesting respondents have filed counter affidavit and the learned counsel appearing for them took me through its contents. The stand of the contesting respondents is that the present management of Saraswathy Narayanan College have not alienated any of the college properties. Their specific stand is that some of the trust properties have been exchanged and that too only in the interest of the college.

7. He further contended that the petitioner has no *locus standi* to maintain the petition because he is not a person connected with the affairs of the trust. It is also stated that the petitioner has already filed civil suit seeking his inclusion in the trust. Instead of working out his rights in the civil suit, the petitioner is vexing the respondents by filing one writ petition after another. In any event, when the Hon'ble Division Bench is seized of the matter, it is not open to the petitioner to file the present writ petition. He prays for dismissal of the writ petition.

8. I carefully considered the rival contentions and went through the materials on record.



9. The objection raised by the contesting respondents is identical to what was raised in the earlier round. A learned Judge of this Court vide order dated 25.10.2021 in W.P.(MD)No.13833 of 2021 rejected the said objection and went on to declaration that alienation is null and void and that steps must be taken to have them restored. The college management instead of complying with the order has chosen to file an appeal. Admittedly no interim order has been obtained in the writ appeal. In the meanwhile, the petitioner has come out with additional particulars also.

10. Section 27(1) of The Tamil Nadu Private Colleges (Regulation)

Act is as follows:-

“ 27. Restriction on alienation of property of the private college.- (1) Notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law-

(a) no property of a private college shall, except with the previous permission in writing of the competent authority, be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or in any other manner whatsoever; and

(b) if any such property is transferred without such permission, the transfer shall be null and void. ”



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11. If ultimately the Hon'ble Division Bench holds that the properties in question belong to the college, then without prior permission of the competent authority they could not have been exchanged. Merely because, it is contended that the properties have not been sold but only exchanged, that would still not keep the transactions out of sweep of Section 27(1) of the Act. Therefore, in this writ petition also, I will have to adopt the very same approach as adopted in W.P. (MD)No.13833 of 2021.

12. Since the college management has filed W.A.(MD)No.2194 of 2021, breathing time can be given to the college. If the ninth respondent failed to obtain interim order in the pending writ appeal within a period of eight weeks from the date of receipt of a copy of this order, the first respondent shall issue notice to the college management and it shall take action for appointing Special Officer under Section 14-A of the Act. I am constrained to give this direction only for the reason that so long as the order of this Court in W.P.(MD)No.13833 of 2021 has not been stayed or set aside. Remedial action must be taken to have the college properties restored. If the college management succeeds in W.A.(MD)No.2194 of



2021 or obtains interim order, the question of appointing Special Officer under Section 14-A of the Act will not arise. This writ petition stands disposed of accordingly. No costs.

20.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Principal Secretary,
Higher Education Department,
Fort St. George, Chennai – 600 009.
2. The Director of Collegiate Education,
D.P.I.Campus, College road,
Nungambakkam, Chennai – 600 006.
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G.R.SWAMINATHAN,J.

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