



W.P.(MD)Nos.9736, 25331 and 25332 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.02.2023

Pronounced on : 19.09.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)Nos.9736, 25331 and 25332 of 2022

and

**WMP(MD)Nos.19419, 19429, 19421, 19423,
19422, 19424, 19425 and 19426 of 2022**

W.P.(MD)No.9736 of 2022:-

St.Annammal Education Trust,
Represented by its Managing Trustee,
A.Baskar Pandian.

... Petitioner

Vs.

1.The Chief Educational Officer,
Thenkasi.

2.The District Educational Office,
Thenkasi Educational District,
Thenkasi District.

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 2nd respondent to approve the Secretaryship of the Institutions run by the petitioner's trust pursuant to the proposal submitted by the petitioner on 15.02.2022 followed by the reminder dated 16.03.2022 within the period that may be stipulated by this Court.



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For Petitioner : Mr.M.Ajmal Khan, Senior Counsel,
For M/s.Ajmal Associates.

For Respondents : Mr.S.Shaji Bino,
Spl. Government Pleader.

W.P.(MD)No.25331 of 2022:-

A.Baskara Pandian.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St George, Chennai-09.

2.The Commissioner,
Directorate of School Education,
DPI Campus, Nungampakkam,
Chennai - 06.

3.The Joint Director (Higher Secondary),
Directorate of School Education,
DPI Campus, Nungampakkam,
Chennai - 06.

4.The Chief Educational Officer,
Tenkasi, Tenkasi District.

5.The District Educational Officer,
Tenkasi, Tenkasi District.

6.Diana Anne Rajammal,
Head Mistress,
St.Anthoniyar Girls Higher Secondary School,
Veerakeralamputhur,
Tenkasi District.

... Respondents



W.P.(MD)Nos.9736, 25331 and 25332 of 2022

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.1989/A2/2021 dated 01.11.2021 on the file of the Respondent No.5 and quash the same as illegal and consequently directing the Respondent No.3 to appoint the petitioner as the Secretary to Anna Boys Higher Secondary School, Veerakeralamputhur, Tenkasi District within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For Mr.S.Rajasekar.

For Respondents : Mr.S.Shaji Bino,
Spl. Government Pleader for R1 to R5.
Mr.Sricharan Rangarajan,
For Mr.S.Chellapandian for R6.

W.P.(MD)No.25332 of 2022:-

A.Baskara Pandian.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St George, Chennai-09.
- 2.The Commissioner,
Directorate of School Education,
DPI Campus, Nungampakkam,
Chennai - 06.
- 3.The Joint Director (Higher Secondary),
Directorate of School Education,
DPI Campus, Nungampakkam,
Chennai - 06.



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4.The Chief Educational Officer,
Tenkasi, Tenkasi District.

5.The District Educational Officer,
Tenkasi, Tenkasi District.

6.Diana Anne Rajammal,
Head Mistress,
St.Anthoniyar Girls Higher Secondary School,
Veerakeralamputhur,
Tenkasi District.

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in Mu.Mu.No.469/A1/2022 dated 31.03.2022 on the file of the Respondent No.5 and quash the same as illegal and consequently directing the Respondent No.3 to appoint the petitioner as the Secretary to Anna Boys Higher Secondary School, Veerakeralamputhur, Tenkasi District within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel,
For Mr.S.Rajasekar.

For Respondents : Mr.S.Shaji Bino,
Spl. Government Pleader for R1 to R5.
Mr.Sricharan Rangarajan,
For Mr.S.Chellapandian for R6.

COMMON ORDER

Heard both sides.



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2.Shri.Annasamy took over the management of “Zamin-Navaneethan Elementary School” in the year 1956 and developed the same into a middle school known as “Anna Middle School”. It was declared as a Christian minority institution. In the year 1989 “Punitha Annamal Educational Trust” was established. Annasamy, his wife / Mary Daisy Ammal and his sons namely, Kumara Pandian and Baskara Pandian were to be life time trustees. They were to being the managing trustees by turns after the immediate senior passed away. Annasamy was to the first managing trustee followed by his wife Mary Daisy Ammal, followed by his elder son Kumara Pandian and followed by his younger son Baskara Pandian. Anna Middle School was bifurcated in the year 1990s into Anna Middle School, Anna Boys Higher Secondary School and St.Antony Girls Higher Secondary School. They continue to be aided institutions as on date.

3.Annasamy passed away in the year 2007. Dispute arose among the legal heirs. However, it was compromised. Mary Daisy Ammal became the Correspondent / Manager for all the three schools on 05.11.2008. She however nominated her elder son / Kumara Pandian as Correspondent / Manager on 06.11.2017. Kumara Pandian passed away on 03.05.2021. His daughter



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Mrs. Diana Anne Rajammal was nominated as Correspondent / Manager by the other legal heirs of Kumara Pandian. This was acknowledged and registered by the District Educational Officer on 01.11.2021, 15.11.2021 and 31.03.2022. Challenging the proceedings dated 01.11.2021 and 15.11.2021, W.P.(MD)Nos.25331 and 25332 of 2022 came to be filed. Seeking approval of appointment of Baskara Pandian as Correspondent / Manager, W.P.(MD)No.9736 of 2022 has been filed.

4.Elaborate and substantial arguments were advanced on either side. I was taken through the contents of the pleadings filed on either side and also the typed set of papers. I however do not propose to consider them for the simple reason that the issue has to be resolved as per Section 53-A of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. When W.P.(MD)Nos.25331 and 25332 of 2022 were admitted, this Court vide order dated 01.11.2021 passed the following interim order:-

“These petitions have been filed seeking interim stay of operation of the impugned orders passed by the respondent No.5 dated 01.11.2021 and 31.03.2022.

2. The father and mother of the petitioner had created educational agency name called Punitha Annamal Educational Trust in



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the year 1989 and they were running different schools at their life time.

In order to protect the educational institution, the petitioner's father Mr. Anna Samy, his mother Mrs. Mary Daisy Rajammal, his brother Mr. Kumar Pandian and the petitioner formed a Trust in the name of Punitha Annamal Educational Trust. After the death of his father, his mother was appointed as the Secretary and Manager from 26.06.2007, as per the conditions prescribed in the said Trust Deed. After the death of his mother, Kumar Pandian will become the Secretary and Managing Trustee and after his death, the petitioner herein has to become the Secretary and Managing Trustee.

3. The authority viz., the District Educational Officer, Tenkasi has passed the impugned orders dated 01.11.2021 and 31.03.2022, stating that Kumar Pandian died on 03.05.2021. Hence, as per the decree of the Additional District Court, Tenkasi in O.S.No.611/78, dated 18.10.1982, the said Kumar Pandian was the Secretary and Managing Trustee of the said School from 27.10.2017 and accordingly, after his death, one K. Diayana Ani Rajammal, who is the daughter of Kumar Pandian will take the position of Secretary and Managing Trustee from 04.05.2021 onwards. This cannot be done as per the Trust Deed and only the fourth trustee, who is the petitioner herein A. Baskara Pandian will take charge after the demise of the third trustee viz., Kumar Pandian. As such, the petitioner has made out a prima facie case for grant of interim stay. Hence, there shall be an order of interim stay.”

5. Section 53-A of the Private Schools Regulation Act, 1973 reads as follows:-



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“53A. Settlement of dispute as to educational agency, etc. - (1)

Notwithstanding anything contained in section 53, whenever any dispute as to the constitution of any educational agency, or as to whether any person or body of persons, is an educational agency, in relation to any private school, or as to the constitution of a School Committee, or as to the appointment of the Secretary of the School Committee arises, such dispute may be referred by the persons interested or by the competent authority to the Civil Court having jurisdiction, for its decision.

(2) Pending the decision of the Civil Court on a dispute referred to it under sub-section (1), or the making of an interim arrangement by the Civil Court for the running of the private school, the Government may nominate an officer to discharge the functions of the Educational Agency, the School Committee or the Secretary, as the case may be, in relation to the private school concerned.”

6. In the Tamil Nadu Recognized Private Schools (Regulation) Act, 2018 also there is a corresponding provision namely, Section 56 which is also in *pari materia*. I have no doubt whatsoever in my mind that a genuine dispute has arisen as to who should be recognized as the Correspondent / Manager of the schools. The Writ Court is not competent to go into factual dispute such as the one on hand. Baskara Pandian is permitted to avail the remedy under Section 53-A of the Act. Such a suit shall be filed by him within a period of three weeks from the date of receipt of a copy of this order. It is for Baskara Pandian



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to file the suit because it is he who filed the present writ petitions. Merely because Baskara Pandian will be figuring as the plaintiff in the statutory suit, that does not mean that extra burden is on him. The Government, the Education Department and Diana Anne Rajammal will be figuring as defendants. Diana Anne Rajammal will be the contesting defendant. Subject to Basakara Pandian filling such a suit within three weeks from the date of receipt of a copy of this order, the interim order earlier granted is made absolute till the disposal of the suit. If Basakara Pandian fails to file the suit within the time mentioned above, the interim order will stand vacated. The suit if filed will be disposed of in eight months from the date of institution. I make it clear that I have not gone into the merits of the matter.

7. These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

19.09.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To:-

- 1.The Secretary,
Department of School Education,
Fort St George, Chennai-09.
- 2.The Commissioner,
Directorate of School Education,
DPI Campus, Nungampakkam,
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- 3.The Joint Director (Higher Secondary),
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G.R.SWAMINATHAN, J.

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**Pre-Delivery Common - Order in
WP(MD)Nos.9736, 25331 and 25332 of 2022**

**19.09.2023
(2/2)**