



Cont.P.(MD).Nos.822 and 823 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 01.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CONT. PTN. (MD) NOS. 822 & 823 OF 2022

IN

W.P. (MD) NOS. 14823 & 14825 OF 2020

K.Karpagam

.. Petitioner in CP (MD) 822/2022

N.Ahaz Reegan

.. Petitioner in CP (MD) 823/2022

- Vs -

Mr.Balamurugan,
Secretary,
Muthukaruppan Memorial Higher Secondary School,
Subbammalpuram,
Sillakulam Post,
Ottapidaram (Taluk),
Thoothukudi District.

... Respondent in both petitions

Contempt Petition (MD) No.822/2022 filed Under Section 11 of the Contempt of Court Act, 1971, to punish the contemnor for the deliberate and wilful disobedience of the order dated 27.04.2022 passed by this Court in W.P. (MD).No.14823 of 2020.



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Contempt Petition (MD) No.823/2022 filed Under Section 11 of the Contempt of Court Act, 1971, to punish the contemnor for the deliberate and wilful disobedience of the order dated 27.04.2022 passed by this Court in W.P. (MD).No.14825 of 2020.

For Petitioners : Mr.H.Mohamed Imran
for M/s. Ajmal Associates

For Respondent : Mr. C.Mayilvahana Rajendran

COMMON ORDER

Alleging willful disobedience of the order dated 27.04.2022, passed in W.P. (MD).Nos.14823 and 14825 of 2020, dated 27.04.2022, the present contempt petitions have been filed

2. The petitioners are mother and son who were working as Headmistress and Office Assistant in Muthukaruppan Memorial Higher Secondary School, Subbammalpuram, Sillakulam Post, Ottapidaram (Taluk), Thoothukudi District. The petitioners and the contemnor's are related to each other. In that, the contemnor and the petitioner in W.P. No.14823/2020 are brother and sister, whose forefathers had started the school in the year 1930. The respondent is the



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Secretary of Muthukaruppan Memorial Higher Secondary School. The school is under the management of respondent. Due to inter se dispute between the petitioners and the respondent, departmental action was initiated against the petitioners resulting in the filing of the writ petition, in which this Court quashed the proceedings and issued a series of directions, including a direction to appoint an enquiry officer to enquire into the dispute and to submit a report.

3. The main allegation raised by the petitioners against the respondent is that the respondent, who is the Secretary of the School, is intent on appointing his son as the Headmaster of the school in the place of the petitioner in W.P. No. 14823/2020. Contrarily, the respondent claims that the petitioners are trying to usurp the property by the petitioner in W.P. (MD) No.14823/20 appointing her own son as the Office Assistant in the school.

4. The off-shoot of the dispute is the initiation of disciplinary proceedings as against the petitioners by issuance of order of suspension, which resulted in the filing of the writ petitions, in which this Court had passed the following order:-



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“7. When the parties have arrived at a consensus for a consent order and made submissions accordingly, this Court thought fit to give quietus to the issues as the facts are complex in nature and further the Management people and the petitioners are close relatives. In view of the consent expressed by the respective parties to the writ petitions through the learned Senior Counsel for the petitioners and the learned counsels appearing for the respondents, this Court is inclined to pass the following orders:

(i) The impugned orders of suspension, dated 07.10.2020, passed by the respondents 4 and 6 are quashed. The petitioners are directed to be reinstated into service forthwith.

(ii) The District Adi Dravidar Welfare Officer, Thoothukudi District, is directed to appoint an Enquiry Officer not below the rank of a retired District Educational Officer for the purpose of conducting domestic enquiry, within a period of two weeks from the date of receipt of a copy of this order.

(iii) The District Adi Dravidar Welfare Officer, Thoothukudi District, shall fix remuneration to be paid to the Enquiry Officer by the Management of the respondent School. (iv) The Enquiry Officer, as appointed by the District Adi Dravidar Welfare Officer, shall commence the enquiry proceedings immediately by issuing notice to all the parties to the writ petitions by fixing a date and time and



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proceed with the enquiry by following the procedures as contemplated.

(v) Opportunity of hearing must be provided to all the parties and the enquiry report is directed to be submitted within a period of three months from the date of commencement of the proceedings.

(vi) It is needless to state that the petitioners are at liberty to raise all the factual and legal grounds, including the ground of jurisdiction, before the Enquiry Officer and before the Disciplinary Authority.

(vii) The petitioners are directed to cooperate for early disposal of the disciplinary proceedings and in the event of non-cooperation on the part of the petitioners or any other party, the Enquiry Officer shall record the same in the minutes itself and in such circumstances, such parties are not entitled to claim any relief on the ground of delay in disposal of the disciplinary proceedings.

(viii) On submission of enquiry report, the Competent Authority / Trust / Disciplinary Authority shall proceed based on the enquiry report and pass final orders on merits and in accordance with law, without causing any undue delay.”



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5. The aforesaid order directing reinstatement having not been complied with inspite of specific directions of this Court premising that one other person has been given the charge of the said post during the suspension of the petitioners, the act of the respondent is *per se* contempt, which has resulted in the filing of the present contempt petitions.

6. Consequent upon the notice issued in the contempt petitions, the respondent appeared before this Court and submitted that pursuant to the orders of this Court in the writ petitions, the suspension of the petitioners have been revoked and the petitioners have joined duty as Headmistress and Office Assistant on 24.11.2022. Though such a stand is taken by the respondent, it is the claim of the petitioners that though the suspension has been revoked, however, the petitioners have not been allowed to join duty physically in the respondent School.

7. In the aforesaid backdrop of the facts, it is the submission of the learned counsel for the petitioners that though the order of suspension was revoked on 24.11.2022, however, a subsequent charge memo dated 30.11.2022 was issued to



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the petitioners and the petitioners were suspended once again vide orders dated 08.12.2022. It is the further submission of the learned counsel that only on the initiation of the contempt petitions, the said suspension was withdrawn on 24.01.2023. It is the further submission of the learned counsel that the proposal for payment of salary to the petitioners have not been forwarded to the educational authorities till date.

8. In response to the same, learned counsel appearing for the respondent submitted that necessary bills were forwarded to the District Adi Dravidar Welfare Officer, Thoothukudi on 23.01.2023 and response is awaited with regard to disbursement.

9. In view of the varying stand taken by the learned counsel appearing on either side, to find out the truth or otherwise in the matter, this Court, by order dated 20.2.2023 directed the 3rd respondent/District Educational Officer to conduct an enquiry to ascertain the veracity of the statements made by either of the parties, who are closely related and to file a report before this Court on or before 27.02.2023. In compliance with the aforesaid direction, the 3rd respondent



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has conducted an enquiry and filed a report before this Court.

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10. A perusal of the report reveals that as on date, 134 teaching and non-teaching staffs are working in the School and the grant in aid was paid by the Government. Further, it also transpires from the said report that payment towards salary for the teaching and non-teaching staff is being paid from the grants-in-aid by the respective authority and that the staff members have submitted their concurrence with regard to payment of salary. It further transpires from the report that the petitioner, who is the Headmistress of the school, who has been directed to be reinstated in service is not discharging her duties properly and that she acts only as name-lender to the post of Headmistress and not discharging the duties attached to the said post promptly. The report further reveals that payment towards the salary of the petitioners herein has been forwarded to the concerned authorities. However, in view of the dispute between the petitioner in W.P. (MD) No.14823/20 and the respondent, who are brother and sister, the functioning of the school stands greatly hindered, thereby, a climate has arisen in which the academics of the students is greatly affected due to the power conflict between the petitioners and the respondent.



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11. From a careful perusal of the report, it is evident that all is not well with the school management. Further, there is gross dereliction of duty on behalf of the petitioner in W.P. (MD) No.14823/20 and the respondent, viz., the Headmistress and Secretary of the school. The tussle between the two blood-related persons is grossly affecting the studies of the students. It is borne out by record that the petitioners and respondent are sixth generation persons running the school, which clearly shows the long standing reputation of the school. Further, it is also borne out by record that more than 3500 students are studying in the school and about 134 staff members, both teaching and non-teaching, are working in the school. This reveals not only the stature of the school but also the reputation which it commands in the locality. If not for the able staff strength in the school, the inflow of students of such gigantic proportion would not be possible, as parents would seldom want their wards to be admitted in schools, which does not command great reputation, as the future of their kids would always be in the mind of the parents, while admitting their children in a specific school. If the functioning of the school is not in the interest of the students, definitely, it is the duty of the concerned authority to set right the issue.



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12. In the case on hand, the act of the respondent is not only in contempt, but it is in detriment to the functioning of the school; so also the act of the petitioner/Headmistress, which is not in consonance with the interest of the school and in particular the students studying in the said school as is evident from the report. In such a backdrop, it is the duty of the appropriate educational authority to see that the interest of the school is safeguarded and the academics of the students is not put in peril, as otherwise it would have a detrimental effect on the future career of the students.

13. It should also not be lost sight of that Section 18-A of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, clothes the Government with power to appoint Special Officer in certain cases as enumerated therein and for better appreciation, the relevant provision is quoted hereunder :-

“18- A. Appointment of Special Officer in certain cases : (1)

(A) where the Government, on receipt of a report from the Director or otherwise, are satisfied that the management of any private school:-

(i) is responsible, whether on or after the date of



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commencement of the Tamil Nadu Recognised Private School (Regulation) and Private Colleges (Regulation) Amendment Act, 1982, for the mal administration, lapses or irregularities of such private school; or

(ii) has neglected whether on or after the date of commencement of the Tamil Nadu Recognised Private Schools (Regulation) and Private Colleges (Regulation) amendment Act, 1982 to discharge any of the duties imposed or to perform any of the functions entrusted to such management by or under this Act, or any rule or order made or direction issued thereunder, the Government may, after giving to such management an opportunity to make representation and for reasons to be recorded in writing, by an order suspend the management and appoint a special officer for a period not exceeding one year or till the reconstitution of the management(in accordance with the law applicable to the reconstitution of such management), whichever is later:

Provided that in no case the maximum period of such suspension of management shall exceed two years irrespective of the reconstitution of the management in accordance with the law applicable to the reconstitution of such management:

Provided further that where, the management of any minority school is suspended, the Government shall appoint a special officer belonging to that minority which has been administering the said minority school immediately proceeding such suspension.



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(iii) The special officer to be appointed under sub section (ii) shall be a District Educational officer in respect of High and Higher Secondary Schools. The authority competent to accord approval wherever necessary as contemplated in these rules on matters arising from the orders of the Special Officer shall be the Chief Educational Officer in whose jurisdiction such school lies (ii) shall be the District Elementary Educational Officer of the District in the case of primary and middle schools. The authority competent to accord approval wherever necessary as contemplated in these rules, shall be a Deputy Director of Elementary Education nominated by the Director of Elementary Education for the purpose.

(iv) (b) On the making of an order under clause (a), suspending the management of a private school:-

(i) the management shall cease to discharge the duties imposed on, and to perform the functions entrusted to it; and

(ii) the special officer-

(A) shall take all such steps as may be necessary to efficiently manage and run the private school in accordance with any law applicable to the private school in so far as such law is not inconsistent with this Act; and

(B) may afford such special educational facilities as were immediately before the making of the order under clause (a), afforded at the private school.



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Explanation:- In item (A) of sub-clause (ii) of clause (b), the expression “law” includes any byelaw, rules, regulation, custom, usage or instrument having the force of law.

(C) where the Government are satisfied that the manager alone, is whether on or after the date of commencement of the Tamil Nadu Recognised Private Schools (regulation) and Private Colleges (Regulation) Amendment Act, 1982, responsible for the lapses or irregularities of the private school, action shall be taken against him by the management, as recommended by the Government.

(2) The Government may, for reasons to be recorded in writing, by an order declare a person to be unfit to be the manager of private school after giving to such person an opportunity of making his representation against such declaration and under intimation to the management and on such declaration, the person aforesaid shall cease to be the manager of the private school, shall nominate another person as a manager in his place.

(3) For the removal of doubts it is hereby declared that any willful failure or wilful negligence on the part of a management to take action against the manager as required under clause (c) of subsection (1) or to nominate another person as manager under subsection (2) shall constitute an act of maladministration and action shall be taken against the management of private school under this Act accordingly.



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Explanation:- For the purpose of this Chapter2.

“management” includes the school committee or any person, body of persons, committee or any other governing body, by whatever name called, in whom the power to manage or administer the affairs of a private school is vested:

Provided that the Board of Trustees, or the governing body of Wakf Board, by whatever name called, constituted or appointed under any other law for the time being in force relating to the charitable and religious institutions and endowments and wakfs, shall be deemed to be a management for the purposes of this Chapter;

(3) “manager” means the secretary, or any person holding office as president, manager or correspondent of a private school, who is managing or administering the affairs of such private school;

(4) “private school” includes minority school.

(5) Sub-sections (1) and (2) shall apply to a minority school, in so far as they are not repugnant to clause (1) of Article 30 of the Constitution.”

14. The report of the District Educational Officer, which is on the basis of the directions of this Court, reveals threadbare the status of the school at the hands of the two individuals, viz., the petitioners and the respondent. The



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dispute that has been brewing between the petitioners and the respondent, in turn, affects the functioning of the school and, thereby, has a cascading effect on the imparting of education to the students. The current situation definitely falls within the four corners of the eventualities contemplated u/s 18-A. The mal-administration and lapses, which are available in black and white in the report of the District Educational Officer necessarily warrants the invocation of the power conferred u/s 18-A by appointment of a Special Officer and ordering direct payment of the grant-in aid for the better administration and running of the school, which alone can restore the glory lost by the school due to the acts of the petitioners and the respondent.

15. Though an act of contempt has been committed by the respondent, this Court, keeping in mind the fact that there lingers a dispute between the petitioners and respondent, who are blood related and the bitterness is the offshoot of the property dispute, which is alleged by either side, though the majesty of the Court is impinged by the act of the respondent, however, the larger ramification looms large in the school being affected on account of the dispute between the warring parties and the interest of the students being put in



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doldrums and also mindful of the reputation of the school and also the interest of the staff working in the school and also the students, though punishment for contempt is imminent, but in the larger interest of justice, this Court, without inflicting any punishment on the respondent, for the reasons aforesaid, passes the following order :-

- i) *The 3rd respondent in the writ petitions, viz., the Thoothukudi District, is directed to transfer the petitioners in W.P. (MD) Nos.14823 and 14825 of 2020, viz., the Headmistress and Office Assistant to any nearby school and shall appoint a suitable person having the requisite qualifications as Headmaster in the post occupied by the said petitioner in W.P. (MD) Nos.14823/20 in Muthukaruppan Memorial Higher Secondary School, Subbammalpuram, Sillakulam Post, Ottapidaram Taluk, Thoothukudi District, for the smooth running of the school and also in the interest of the welfare of the students;*
- ii) *The District Educational Officer/3rd respondent in the writ petition, is directed to invoke Section 18-A of the Act by appointing a Special Officer and bring the school within the direct payment system so that the salary to all the staff, both teaching and non-teaching shall stand disbursed without any hiccups;*



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- iii) *The District Educational Officer/3rd respondent in the writ petitions is directed to appoint a honest retired official from the education department, not less than the rank of District Educational Officer, to run the school in the interregnum;*
- iv) *It is further made clear that the Secretary of the school, viz., the petitioner in W.P. (MD) No.14824/20 is working as B.T. Assistant in the school, who is permitted to continue in the post of B.T. Assistant in the very same school;*
- v) *The enquiry, as ordered by this Court in W.P. (MD) Nos. 14823 to 14825/20 shall be taken up and completed as expeditiously as possible and till a quietus is given to the dispute, the arrangement as made above shall continue. The petitioners and the respondent are directed to co-operate in the enquiry for its early completion.*

16. With the above directions, these Contempt Petitions are closed.

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Index : Yes / No

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To

1. The District Educational Officer
O/o The District Educational Officer
Thoothukudi, Thoothukudi District.

2. The Commissioner of School Education
DPI Campus, College Road
Chennai 600 028.



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M.DHANDAPANI, J.

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