



W.P.(MD)No.16155 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16155 of 2021

and

W.M.P.(MD).No.13020 of 2021

The Correspondent,
St.Mary's Higher Secondary School,
Melpalai – 629 152,
Kanyakumari District.

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
St.George Fort,
Chennai.

2.The Commissioner of School Education,
(Secondary Education),
DPI Campus, College Road,
Chennai – 600 006.

3.The Chief Educational Officer,
Kanyakumari District,
At Nagercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the files of the third respondent pertaining to its order bearing File No.50/E2/2021 dated



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07.07.2021 and to quash the same and consequently directing the respondents to grant permission to our School to start English Medium that is 11th and 12th standard equivalent to Tamil Medium with grant also include the students studying in English Medium for the purpose of staff fixation within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.P.Thambi Durai
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the third respondent dated 07.07.2021 and for a consequential direction to the respondents to grant permission to the petitioner School to start English Medium in the 11th and 12th standard and also issue grant-in-aid for the students studying in English Medium.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Government Advocate appearing on behalf of the respondents.

3. The petitioner School was started in the year 1955 and it was upgraded as High School in the year 1956. The petitioner School started English Medium



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section during the year 1998-1999 and were conducting English Medium classes from 1st standard to 10th standard. Insofar as 11th and 12th Standard is concerned, the petitioner School continued to impart education in Tamil Medium. The petitioner wanted to start English Medium for 11th and 12th standard also. In the meantime, G.O.Ms.No.148 dated 20.07.2019 was issued in and by which permission was granted to the Aided Institutions to start English Medium courses. The petitioner School being an aided Institution wanted to take advantage of this Government Order.

4. The petitioner therefore made a representation to the respondents to grant permission to impart English as a Medium of teaching for 11th and 12th standard also. The said request made by the petitioner was rejected by the third respondent through the impugned proceedings dated 07.07.2021 and the same has been put to challenge in this Writ Petition.

5. When the matter was taken up for hearing, it was brought to the notice of this Court that this Court has passed an order in W.A.No.76 of 2019 dated 31.03.2021, wherein a direction was issued to the Education Department for grant-in-aid to the courses or sections opened after 1991-1992 and to allow the grant-in-aid to English Medium section also. In the light of the directions



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issued by this Court, the impugned proceedings of the third respondent may not be sustainable. However, the third respondent in the counter affidavit has taken the following stand at Paragraph No. 10 of the counter and the same is extracted hereunder:

“10. It is submitted as for the decision in W.A.No.76 of 2019 dated 31.03.2021 as for granting aid to the courses or sections opened after 1991-92 and to allow grants aid to English medium sections, the Department has preferred S.L.P. In the Supreme Court of India on -09-2021 against the directions given by the Hon'ble High Court. The S.L.P is still pending. The petitioner school cannot take the orders dated 31.03.2021 in W.A.76 of 2019 batch cases as no final verdict has been issued on the S.L.P and the matter is subjudice. It is pertinent to submit that the Government of Tamil Nadu has not issued any Government orders based on the judgment.”

6. It is clear from the above that the Special Leave Petition is pending before the Apex Court and depending upon the result in this appeal, the order passed by this Court in W.A.No.76 of 2019 will become operational.



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7. It is also brought to the notice of this Court that during the pendency of the SLP, no order has been issued by the Government by allowing grant-in-aid for English Medium to any School. Hence, the petitioner has to necessarily await for the final orders to be passed in the pending appeal before the Apex Court.

8. In the result, this Writ Petition is disposed of with a direction to the petitioner to await for the final result in the appeal that is pending before the Apex Court and subject to the result of this appeal, it will be left open to the petitioner to revive the claim for grant-in-aid for English Medium for Classes 11th and 12th standard. Even otherwise, if the petitioner wants to start 11th and 12th standard through English Medium without seeking for any grant-in-aid, it is left open to the petitioner to make a representation / application in this regard and the same will be independently considered by the third respondent without going into the issue of grant-in-aid and subject to other conditions being fulfilled by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no



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Internet:yes/no

Nsr

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Nsr

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