



WP(MD)No.23175 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.11.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.23175 of 2021

and

W.M.P.(MD)No.19613 of 2021

M.Radhakrishnan

...Petitioner

/Vs./

- 1.The Secretary to the Government,
Tamilnadu Educational Department,
St.Geroge, Fort, Chennai.
- 2.The Zonal Officer (CBSE Education Board),
No.3, 6th Avenue,
Near Sri Devi Hospital,
Annan Nagar, Chennai.
- 3.The District Collector,
Tuticorin District, Tuticorin.
- 4.The Chief Educational Officer,
Tuticorin District, Tuticorin.
- 5.The District Superintendent of Police,
Tuticorin District, Tuticorin.
- 6.Kamaraj International Academy,
Rep. by its Correspondent,
Pasuvanthanai Road,
Panduvarmangalam,
Kovilpatti,
Tuticorin - 628 501.

...Respondents



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PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directing the 2nd respondent herein to permit the petitioner's son namely “R.K.Lakshan Sabariswar” to write his 10th standard public examinations (Both 1st Semester and 2nd Semester) under CBSE syllabus during the month of April, 2022 for the academic year 2021-2022 and also direct the respondents 1 to 5 to take appropriate action against the 6th respondent school.

For Petitioner : Mr.M.Prabu

For Respondents : Mr.P.Thambi Durai (R1, R3 & R4)

Government Advocate

Mr.P.Karthick (R2)

Mr.R.Sivakumar (R5)

Government Advocate

Mr.C.Mayilvahana Rajendran (R6)

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the official respondents to act upon the complaint given by the petitioner and to take action against the 6th respondent and for a further direction to permit the petitioner's son to write 10th standard examination under CBSE syllabus for the academic year 2021 to 2022.



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2. The grievance of the petitioner is that his son was studying in the 10th standard during the academic year 2021-2022 in the 6th respondent school, which claimed to be affiliated to the CBSE curriculum. An inspection was conducted by the 4th respondent on 27.07.2021 and it was found that the 6th respondent school was functioning without getting proper approval from the concerned authorities to admit the students in the CBSE curriculum. Hence, the fourth respondent passed an order on 10.08.2021 cancelling the approval to the 6th respondent school and directed the 6th respondent school to admit the students in any other approved school nearby.

3. The further case of the petitioner is that CBSE examination was nearing and when the petitioner approached 6th respondent school for hall ticket, he was informed that his son has been admitted in another school under the same management, which had a matriculation syllabus. According to the petitioner, this was done based on a letter, which was signed by the wife of the petitioner and the signature found therein is not that of the petitioner's wife.

4. It is under these circumstances, the petitioner made a complaint to the official respondents to take action against the 6th respondent school and also



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to permit the petitioner's son to write the 10th standard public examination for the academic year 2021-2022.

5. The second respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

“4. I humbly submit that the 2nd Respondent received a complaint from the petitioner vide his email dated 02.12.2021 regarding his son admission in 6th Respondent school. Immediately, the 2nd respondent sought comments from the 6th respondent school on the complaint made by the Petitioner. The 6th respondent school replied that the petitioner's son namely "R.K.Lakshan Sabariswar" of Class Tenth standard was not studying in Kamaraj Internation Academy but he is studying in Kamaraj Matriculation Higher Secondary School from September 2021. The above mentioned information was duly communicated to the petitioner vide this respondent e-mail dated 22.12.2022 and the complaint was closed.

5. I humbly submit that the 6th respondent got fresh affiliation from the 2nd respondent for Senior Secondary School Examination Class 1 to 12 for period 01.04.2021 to 31.03.2026. As per the fresh affiliation, the 6th respondent can take admission for class IX/XI only from 1st April, 2021 and the year and month in which first batch of Class- X/XII will appear in board examination is from 1st April 2023. The 6th respondent can take admission for class ninth only from 1st April 2021, the 6th respondent school was not even having approval to admit student in ninth standard for the academic year 2020-2021. The



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affiliation details of the 6th respondent are as follows:-

<i>Affiliated for</i>	<i>Senior Secondary School Examination Class 1 to 12</i>
<i>Category</i>	<i>Fresh Affiliation</i>
<i>Period of affiliation</i>	<i>01.04.2021 to 31.03.2023</i>
<i>Year and month from which admission can be taken in class - IX/XI</i>	<i>1 April, 2021</i>
<i>Year and month in which first batch of Class – X/XII will appear in board examinations</i>	<i>1 April, 2021</i>

6. I humbly submits that the 2nd respondent acts as per the Rules contemplated in its examination Bye-Laws. The procedure for admitting and sponsoring the students for board examination have been broadly explained in the Bye-laws which are extracted herewith:-

"12. Admission to Examination: Regular Candidates

All India/Delhi Senior School Certificate Examination and Secondary School Examination will be open to such regular candidates who have submitted his duly completed application for admission to the concerning examination, and/or his name in the manner prescribed by the board, along with the prescribed fee (Vide Annexure II), forwarded to the Controller of Examinations by the Head of the Institution/School with the following duly certified by such head:

i) That he possesses the academic qualification laid down in byelaw 11 of these Bye laws.

ii) That he has not passed equivalent examination from this board or equivalent of higher examination of any other board or University. However, All India/Delhi Senior School Certificate Examination will be open to such regular candidates who have passed equivalent examination from this board and will reappear with the vocational subjects.

iii) That he is on the active rolls of the School;



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iv) That he has completed a "regular course of study" as defined and detailed in byelaw 13 of these bye laws, in a school in the subjects in which he would appear in the examination;

v) That he bears a good moral character and is of good conduct;

vi) That he satisfies all other provisions, applicable to him/her, of the examination bye law and any other provision made by the board governing admission to the examination concerned, if any

12.1 (1) it is mandatory upon a school affiliated to board to follow the examination by laws of the board in toto.

ii) No affiliated school shall endeavour to present the candidates who are not on its roll nor will it present the candidates of its un-affiliated branch/schools to any of the Board's examinations.

iii) if the board has reasons to believe that an affiliated school is not following the sub-section 1 and 2 of this section, the board will resort to penalties as deemed fit.

7. I humbly submit that as per the rules stipulated in the Examination Bye laws of the board, a candidate is eligible for appearing in Board exam if he / she is registered for the examination and in active roll from an affiliated school from the board. The petitioner's son has not registered with the board for appearing in the examination and he is also not in the active roll of affiliated CBSE School.

8. I humbly submit that the CBSE board examination is conducted in two terms. The 2nd Respondent had already conducted the first term examination for tenth standard students for the academic year 2021-2022. The first term examination had started on 30th Nov 2021 and got over on 11th Dec 2021.

9. I humbly submit that the petitioner son is not registered for Board examination in Class IX he is not eligible for appearing for Board examination for the Academic year 2021 – 2022. Further, it is added that the 6th respondent school is having affiliation with effect from 01.04.2021 thereby making



the school to sponsor first batch of class X in the year 2021 (Academic year 2022-2023) only.”

6. The 6th respondent has also filed a counter affidavit and the relevant portions are extracted hereunder:-

“6. I respectfully submit that the Plan approval of the school building is the necessary document to get affiliation from the 2nd Respondent. Due to the above said bonafide reason, the affiliation of the school could not be obtained from the 2nd Respondent. After getting approval from the President, Pandavarmangalam Panchayat, I made application to the 2nd Respondent for the affiliation of the school. Accordingly, the 2nd Respondent granted affiliation to the school on 07.12.2021. The Parents of all the students including the Petitioner are well aware about the effective steps taken by me to get affiliation from the 2nd Respondent. Hence, they admitted the students in the Kamaraj Matriculation School run by the Sangam. We also did not receive any fee from the students. The Petitioner's son was also admitted in the Kamaraj Matriculation School, Kovilpatti and he is studying in the Kamaraj Matriculation School, Kovilpatti as on today.

7. I respectfully submit that the Nadar Higher Secondary School is offering education from Standards 6 to 12 in two Mediums viz., Tamil and English. The State Government gives grant in aid to the schools. There are totally 1607 Students. The School is known for its academic excellence and high discipline. Nadar Higher Secondary School and Nadar Middle



School are Government Aided Schools having recognition. The other schools are being run as Self Finance. The Schools are promoting free education to its student belongs to the socially and economically downtrodden communities.”

7. Heard Mr.M.Prabu, learned counsel for the petitioner, Mr.P.Thambi Durai, learned Government Advocate for the respondents 1, 3 & 4, Mr.P.Karthick, learned counsel for the second respondent, Mr.R.Sivakumar, learned Government Advocate for the fifth respondent and Mr.C.Mayilvahana Rajendran, learned counsel for the sixth respondent.

8. The petitioner has sought for two reliefs in this writ petition. Insofar as the first relief is concerned, with respect to writing the examination, it has become infructuous, since the petitioner's son cannot write the examination under the CBSE curriculum for the academic year 2021 – 2022 at this length of time and this period is already over. Therefore, this writ petition is alive only insofar as the other relief that has been sought for by the petitioner to take criminal action against the 6th respondent, based on the complaint given to the police.

9. According to the petitioner, the 6th respondent has admitted the students and collected fees without getting any affiliation from CBSE and



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thereby has cheated the students and that apart, the petitioner's son was transferred to a Matriculation School by virtue of a letter alleged to have been signed by the petitioner's wife, which according to the petitioner is a forged signature. The complaint that was pending before the Inspector of Police, Kovilpatti west police station was not proceeded further, since this writ petition was pending and the petitioner had informed the police that he will prosecute the complaint only based on the order passed in this writ petition.

10. The learned counsel appearing for the petitioner submitted that he is already taking steps to amend the relief sought for in this writ petition seeking for compensation.

11. In the considered view of this Court, the amendment of the relief cannot be granted in this writ petition, since the cause of action for seeking compensation is different and therefore, liberty is granted to the petitioner to initiate separate proceedings seeking for compensation against the 6th respondent.

12. There shall be direction to the Inspector of Police, Kovilpatti West Police Station to prosecute the complaint given by the petitioner and proceed



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further in accordance with law.

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13. This writ petition is disposed in the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

23.11.2023

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

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- 1.The Secretary to the Government,
Tamilnadu Educational Department,
St.Geroge, Fort, Chennai.
- 2.The District Collector,
Tuticorin District, Tuticorin.
- 3.The Chief Educational Officer,
Tuticorin District, Tuticorin.
- 4.The District Superintendent of Police,
Tuticorin District, Tuticorin.

Copy To:-

- 1.The Inspector of Police,
Kovilpatti West Police Station,
Kovilpatti.



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N.ANAND VENKATESH, J.

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Order made in
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Dated:
23.11.2023