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W.P.No.782 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.782 of 2023

and

W.M.P.Nos.12099 & 728 of 2023

Minor Govarthan

... Petitioner

Vs.

1.The Headmistress,
Mun Middle School,Neruda Nagar,
Ennore, Chennai-600 057.

2. Commissionerate for the Welfare of Differently Abled,
No.5, Kamarajar Salai,
Lady Welington College Campus,
Chennai – 600 005.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 2nd respondent to permit the petitioner to attend 1st respondent school in 6th standard along with other children without any discrimination and harassment as per the Rights of Persons with Disabilities Act 2016.

For Petitioner : Mr. R.Prabhakaran

For Respondent : Mr.R.Arun Kumar (for R1);
: Mr.T.Venkatesh Kumar,
Special Government Pleader (for R2).



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ORDER

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The writ of mandamus has been instituted to direct the second respondents to permit the petitioner to attend the first respondent school in the 6th standard along with other children without any discrimination.

2. With reference to the grievances set out in the present writ petition, this Court passed an order on 16.02.2023, directing the second respondent to reach out with a special teacher and inquire with the special teacher as to the facilities to be provided for educating the petitioner's child.

3. The second respondent was directed to file a report. Pursuant to the interim order, the second respondent Commissionerate for the Welfare of Differently Abled, filed a report and the contents are as under:

“3. It is humbly submitted that, abiding by the orders of the Hon'ble High Court, the following details were obtained in the inquiry conducted on 21.02.2023 with Mrs. Jacinda, Special Instructor by the Chennai District Differently Abled Welfare Officer: -

(i) The special instructor Mrs. E. Jacinda has informed that she has been working as a special instructor for more than 10 years at Puzhal, Regional Resource



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Center.

(ii) *The special instructor has informed that G. K. Govarthan, (Multiple Disabilities) student, studying in Municipal School in Kathivakkam, Nehru Nagar, Ennur. since class one and currently studying in class six.*

(iii) *The special instructor further stated that Govarthan was being given special education once a month from class I to VI, and he was tutored twice at home due to his absence from school for two years during the Covid period.*

(iv) *The special instructor informed that from the first grade to the third grade, his actions were somewhat under control (yelling, putting pieces paper, small stones, etc. in his mouth, jumping, running out of the classroom), but now he runs out of the classroom and suddenly yells, which affects his fellow students and the classroom teacher.*

(v) *She further informed that G. K. Govarthan's mother is sending Govarthan to school from 09.02.2023 onwards, in which Govarthan's mother has been present full time in school for 6 days and the student is under control if she is in school. From 17.02.2023*



onwards, the Govarthan's mother is sending Govarthan to the school and she is not present full time in the school and leaving Govarthan in school for the past 3 days, because of that, Govarthan has been running away from the classroom and the school and the teachers are saying that it is difficult for them. Special Instructor said that Govarthan is under control if his mother is present at the school.

(vi) Special Instructor further stated that, Special Education is provided once a month in the school in Ennore, but Speech Therapy is provided only once a month at Puzhal, District Resource Center and Occupational Therapy is not provided in the inclusive education program.

(vii) She further stated that, if Speech Therapy, Occupational Therapy, and Special Education given to Govarthan regularly, there are more opportunities for improvement in his activities.”

4. In view of the above report, Speech Therapy, Occupational Therapy and Special Education to be given to Minor Govarthan regularly, for the purpose of improving his activities.



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5. The first respondent filed a counter stating that the minor petitioner is a special child with mild mental retardation of 50 per cent and autism spectrum (moderate) 70 per cent disability. At the time of admission, the first respondent School on 07.06.2017, the parents of the minor Govarthan had not informed the School about this fact. The petitioner's father got the disability certificate on 27.10.2017 issued by the Government Medical Authority. The first respondent had further stated that the petitioner could not attend the school for about two years due to COVID-19. Presently the minor attended 6th Standard and his activities over the past two months due to his growth has greatly affected the other students as well. The 1st respondent further states that the activities of the minor and his behaviour resulted in causing greater inconvenience to his classmates. The other parents of the students also made complaints to the first respondent about the behaviour of the minor boy. Since the parents have approached the authorities, the School has conducted a meeting with the teachers and parents and discussed the issue.

6. The counter affidavit as narrated would reveal that the parents of the minor have to take adequate steps to provide better education to the special child instead of quarrelling with the School authorities 1st



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respondent.

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7. The 1st respondent in their counter affidavit has stated that the minor petitioner's activities, day by day, is increasing very worst, i.e., spitting, pinching, beating, passing urine, shedding soil in food and biting. Other parents are complaining to the first respondent School. Therefore, the first respondent had no other option and has given TC (Transfer Certificate) to the minor petitioner. All these factors are not placed before this Court by the writ petitioner.

8. When the minor boy is suffering from mental ailment and is a special child, he has to be treated differently and education is to be provided in the manner contemplated. It may not be possible for such children to study in the normal school along with other children, which would cause inconvenience to the other children and the School Management. Therefore, it is for the parents of the minor Govarthan to initiate all appropriate steps to secure better education and to improve activities of the special child.

9. The parents are duty bound to ensure that their child get such facilities wherever available. Therefore, this Court is of the considered



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opinion that the minor Govarthan has to be provided with the facility to get education and the parents are also bound to co-operate for further improvement of the child.

10. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.04.2024

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To
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S.M.SUBRAMANIAM. J.,

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