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W.A.Nos.214, 216, 219, 221 and 222 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.Nos.214, 216, 219, 221 and 222 of 2022
and C.M.P.Nos.1613, 1616, 1623, 1625, 1617,
1618, 1628, 1629 and 1626 of 2022

W.A.No.214 of 2022

1. The Principal Secretary,
School Education Department,
St.George Fort, Chennai-600 009.
2. The Commissioner,
School Education Department,
DPI Campus, College Road,
Chennai-600 006.
3. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.
4. The Chief Educational Officer,
Tiruvallur District.
5. The District Educational Officer,
Avadi Educational District,
Avadi.

... Appellants/Respondents

-VS-



W.A.Nos.214, 216, 219, 221 and 222 of 2022

St.Johns Matriculation School,
Vasantham Nagar,
Melmanambedu, Vellavedu,
Tiruvallur District-600 124.

Rep. by its Manager Mr.P.K.John, S/o.Kutty

... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 11.11.2021 made in W.P.No.23786 of 2021 and allow this Writ Appeal.

For Appellants : Mr.J.C.Durairaj

Addl. Govt. Pleader

For Respondent : Mr.G.Sankaran, Senior Counsel

For Mr.V.Viswanathan

W.A.No.216 of 2022

1. The Principal Secretary,
School Education Department,
St.George Fort, Chennai-600 009.

2. The Commissioner,
School Education Department,
DPI Campus, College Road,
Chennai-600 006.

3. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.

4. The Chief Educational Officer,
Kanyakumari District.

5. The District Educational Officer,
Thakkalai Educational District,
Thakkalai.

... Appellants/Respondents

-VS-

Aldrin Matric Higher Secondary School,
No.14-97A, Iluppavilai,
Kandavilai, Kandavilai Post,



W.A.Nos.214, 216, 219, 221 and 222 of 2022

Kanyakumari District-629 810.

Rep. by its Correspondent

Dr.M.S.Aldrin Sugin, S/o.M.Singarayan

... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 11.11.2021 made in W.P.No.23785 of 2021 and allow this Writ Appeal.

For Appellants : Mr.J.C.Durairaj
Addl. Govt. Pleader
For Respondent : Mr.G.Sankaran, Senior Counsel
For Mr.V.Viswanathan

W.A.No.219 of 2022

1. The Principal Secretary,
School Education Department,
St.George Fort, Chennai-600 009.
2. The Commissioner,
School Education Department,
DPI Campus, College Road,
Chennai-600 006.
3. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.
4. The Chief Educational Officer,
Tiruvallur District.
5. The District Educational Officer,
Ambattur Educational District,
Ambattur.

... Appellants/Respondents

-VS-

Good Shepherd Matric Higher Secondary School,
No.64, Saraswathi Nagar,
Velan Nagar,
Tiruvallur District-600 087.

Rep. by its Manager, Mr.P.K.John, S/o.Kutty

... Respondent/Writ Petitioner



W.A.Nos.214, 216, 219, 221 and 222 of 2022

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 11.11.2021 made in W.P.No.23780 of 2021 and allow this Writ Appeal.

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For Appellants : Mr.J.C.Durairaj
Addl. Govt. Pleader
For Respondent : Mr.G.Sankaran, Senior Counsel
For Mr.V.Viswanathan

W.A.No.221 of 2022

1. The Principal Secretary,
School Education Department,
St.George Fort, Chennai-600 009.
2. The Commissioner,
School Education Department,
DPI Campus, College Road,
Chennai-600 006.
3. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.
4. The Chief Educational Officer,
Tiruvallur District.
5. The District Educational Officer,
Ponneri Educational District,
Ponneri .

... Appellants/Respondents

-VS-

Sontrust Matriculation School,
No.113, 114 Kattur Road,
Ariyanvoyal, Minjur-601 203,
Tiruvallur District.
Rep. by its Correspondent
Mr.Paul Shankar, S/o.Mr.Paul Perumal

... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 11.11.2021 made in W.P.No.23778 of 2021 and allow this Writ Appeal.



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W.A.Nos.214, 216, 219, 221 and 222 of 2022

For Appellants : Mr.J.C.Durairaj
Addl. Govt. Pleader
For Respondent : Mr.G.Sankaran, Senior Counsel
For Mr.V.Viswanathan

W.A.No.222 of 2022

1. The Principal Secretary,
School Education Department,
St.George Fort, Chennai-600 009.

2. The Commissioner,
School Education Department,
DPI Campus, College Road,
Chennai-600 006.

3. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.

4. The Chief Educational Officer,
Chengalpet District.

5. The District Educational Officer,
Chrompet Educational District,
Chrompet.

... Appellants/Respondents

-vs-

Abhijay Matriculation School,
No.203 & 204, Vignarajapuram 6th Cross Street,
Vengaivasal, Chennai-600 073.

Rep. by its Correspondent

Mr.G.Deivasigamani, S/o.A.Gopal

... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 11.11.2021 made in W.P.No.23781 of 2021 and allow this Writ Appeal.

For Appellants : Mr.J.C.Durairaj
Addl. Govt. Pleader
For Respondent : Mr.G.Sankaran, Senior Counsel
For Mr.V.Viswanathan



COMMON JUDGMENT

(By D.Krishnakumar,J.,)

The issue involved in all these Writ Appeals is one and the same and therefore, they are taken up together for final disposal.

2. These Writ Appeals have been filed by the Government aggrieved by the Common Order of the learned Single Judge dated 11.11.2021, in which, it was held that the applications submitted by the Writ Petitioners were ordered to be dealt with in line with G.O.Ms.No.175 dated 20.07.2017 and to consider the upgradation of the school in terms of the order dated 27.07.2021 passed in W.P.(MD) No.11818 of 2021.

3. The core issue, which culminated into filing a batch of Writ Petitions was as to the non-grant of permission for upgradation to impart education for higher standards on the sole ground that the Writ Petitioners did not satisfy the land norms as prescribed by the Government Orders from time to time. Learned Single Judge, by following the order passed in W.P.(MD) No.11818 of 2021, which had not been refuted by the Government Advocate before the Writ Court, allowed the Writ Petitions on the similar lines and directed to extend the same benefits to the Writ Petitioners.



4. When the instant Writ Appeals are taken up for hearing, learned Senior

Counsel for the Writ Petitioners/Respondents herein strenuously contended that the learned Single Judge, having found that the very same issue was elaborately considered by this Court in W.P.(MD) No.11818 of 2021 and a detailed order was passed therein, had given quietus to the issue on hand on the similar lines, that too, based on the no objection given by the Government Advocate before the Writ Court. The Government, having consented for the same order to be passed in the Writ Petitions, ought not to have preferred the present set of Writ Appeals. However, learned Senior Counsel fairly contended that the order passed in W.P.(MD) No.11818 of 2021 had subsequently been set aside by a Division Bench of this Court in W.A.(MD) No.2124 of 2021 on 10.02.2022 and the said judgment is squarely applicable to the facts of these cases. For better understanding, the operative portion of the judgment, is extracted hereunder:

“5.5 The denial by the State Authorities to the demand of the petitioner school to increase classes by way of up-gradation of school, according to us, cannot be said to be illegal or arbitrary in any manner. The directions in the impugned order dated 27.07.2021 (recorded on the writ petition), to consider the case of the writ petitioner in line with G.O.No.175 dated 20 July 2017 insofar as land space is concerned, according to us, is unsustainable and needs to be set aside.

5.6 We note that though the petitioner school does not meet with the land space criteria as prescribed by the State, it could not have been asked to shut down the school or to reduce the classes. It is not done. This is the policy of the State and the same is rightly implemented in favour of the petitioner as well to that extent. However the petitioner



School can not be permitted to contend that since it is a running school (a going concern) additional classes should also be permitted by allowing up-gradation of the School to Secondary school, though it may not have sufficient open space. It is this demand, which is rejected by the State and according to us, rightly rejected. In the writ petition, no interference was required and according to us, discretion exercised was not justified in this case. While recording this, we also take note of the observations and directions contained in the decision of the Supreme Court in the case of Avinash Mehrotra v Union of India and others reported in (2009) 6 SCC 398. It needs to be noted that the said judgment was in a public interest litigation relating to a fire which swept through Lord Krishna Middle School at Kumbakonam, Tamil Nadu. As noted in the said judgment, the fire had started in the school's kitchen while cooks were preparing mid-day meal and for want of open space and way out, more than 90 students could not be saved. It is this incident which has led to framing of policy by the State. No risk can be taken to dilute it in any manner. If some orders are passed by the State, inconsistent with the said policy, the same would not be accepted as precedent by this Court. If the matter is remanded back to the State Authorities, it would not serve any purpose and therefore that option is also need not be resorted to. We hold that the denial by the State to the petitioner school to upgrade primary school to secondary school as ordered vide order dated 26.02.2021 was in accordance with the policy of the State and the same does not call for any interference. This appeal therefore needs to be allowed.

6. For the above reasons, the following order is passed.

6.1 This appeal is allowed.

6.2 The order dated 27.07.2021 recorded on W.P(MD) No. 11818 of 2021 is quashed and set aside. W.P(MD) No.11818 of 2021 is dismissed.

6.3 The order passed by the Director of Matriculation School, Chennai (second respondent in the writ petition) dated 26.02.2021 is upheld.”



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5. In view of the fairness shown by the learned Senior Counsel appearing for the Writ Petitioners/Respondents herein, we are of the view that all these Writ Appeals have to be allowed in the light of the judgment dated 10.02.2022 (extracted supra). Accordingly, these Writ Appeals are allowed and the common order dated 11.11.2021 of the learned Single Judge is hereby set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.,]

[K.B., J]

09.07.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

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W.A.Nos.214, 216, 219, 221 and 222 of 2022

D.KRISHNAKUMAR,J.,
AND
K.KUMARESH BABU,J.,
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