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W.P.No.4992 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.4992 of 2009
and M.P.Nos.1 & 2 of 2009 & 1 of 2012

Rani Saheba D.S.K.Madurantaki Nachiyar,
Rani of Sivaganga,
Sivaganga Palace,
Sivaganga District.

...Petitioner

-Vs -

1. The Government of Tamilnadu,
Rep. by its Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai – 600 009.
2. The Secretary to Government,
Health & Family Welfare Department,
Government of Tamilnadu,
Fort St. George,
Chennai – 600 009.
3. The Director of Collegiate Education,
College Road, Chennai – 600 034.
4. The Director of Medical Education,
Kilpauk, Chennai – 600 010.
5. The District Collector,
Sivagangai District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the fifth respondent herein in Na.Ka.CA/21927/08 dated 04.09.2008 and the proceedings of the first respondent herein in Letter No.8858/D2/2008-5 dated 28.01.2009 and quash the same and consequently direct the respondents herein to hand over the management, administration and control of the Rajah Durai Singam Memorial College, Sivagangai, to the petitioner.

For Petitioner	: Mr.B.Nedunchezhiyan
For Respondents	
For R1 & R3	: Mr.J.Ravindran, Additional Advocate General, Assisted by Mr.D.Ravichander Special Government Pleader
For R2 & R4	: Mrs.M.Sneha Special Counsel for Health
For R5	: Mr.R.Neethi Perumal Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the fifth respondent dated 04.09.2008 and the order passed by the first respondent dated 28.01.2009, thereby rejected the request made by the petitioner to hand over the Rajah Durai Singam Memorial College, Sivagangai, in her favour.



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2. The petitioner's paternal grandfather Rajah D.Shanmuga

Rajah was the founder of the Rajah Durai Singam Memorial Arts College (hereinafter referred to as “the college”) in Sivagangai District. Thereafter, he executed gift deed dated 02.11.1950, registered vide document No.2349 of 1950, thereby gifted lands to an extent of 200 acres comprised in survey No.63/1 Sivaganga in favour of the college for the purpose of permanent building with future scope for expansion of the college. Thereafter, the college was shifted to new place in the permanent building constructed in the said land.

3. After demise of the petitioner's grandfather, his elder son had taken charge as a Hereditary President of the college. During the year 1975, there were some disputes in the management and administration of the college between the staff and students. In view of the same, under Section 30(1) of the Tamil Nadu Private Colleges (Regulation) Act, 1976 (hereinafter referred to as “the Act”) show cause notice was issued, as to why the government should not take over the college permanently with its liabilities and assets and convert it into government college. In pursuant to the said notice, the government passed order in G.O.Ms.No.2791 dated 23.12.1976, thereby ordered to take over the entire administration of the



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college for the period of two years till 31.12.1978. Subsequently, the period was extended from time to time by various government orders.

The petitioner being the one of the legal heir of the deceased Rajah D.Shanmuga Rajah, she submitted representation seeking to get back the administration of the college. However, the said request was rejected and the same is under challenge in this writ petition.

4. The learned counsel appearing for the petitioner raised ground that permanent take over of the college together with all its assets and liability is against the provisions under Sections 27, 30, 30A and 31 of the Act. The government has right to take custody of the property only for the limited period. After completion of the period, the government is bound to hand over the assets and liabilities of the college back to the management and the government cannot hold the property of the private college for any other purpose. Now the government stated that the property is a government property and part of the property transferred in favour of the fourth respondent by the fifth respondent as if it is a government property.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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6. On perusal of the counter filed by the fifth respondent and also on the submission made by the learned Additional Advocate General revealed that in the year 1976, various complaints were received against the management of college from public, staff and students and therefore, the government called for report. After due enquiry, a report was submitted to the government. The said report revealed that there was dislocation in the administration of the college. Therefore, the management was issued with show cause notice to explain as to why the college should not be taken over by the government for a period of two years. Accordingly, the government passed order under Section 30 of the Act and had taken over the college for the period of two years and the same was subsequently extended till 31.12.1981.

7. In the meanwhile, the college committee found it very difficult to manage the college and they were unable to meet out expenses and to pay salary to the staff. Therefore, they unanimously decided to hand over the college to the government permanently and authorized Management Committee of the college had unanimously passed resolution dated 18.08.1980 and resolved to hand over the entire



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management and the college to the government. Based on the resolution passed by the Committee, necessary recommendations were made by the Director of the Collegiate Education, Chennai, to the government. Thereafter, the government decided to take over the college and management permanently and issued order in G.O.Ms.No.1045 Education Department, dated 08.06.1981, thereby taken over the college permanently with all effect from 07.01.1981. Thereafter, the college become government college and the same is reflected in the official website of the college.

8. Thereafter, the Director of the Collegiate Education was directed to send necessary proposal to absorb the staff of the college. Thereafter all the vacancies of the college were filled by the Higher Education Department. Therefore, Section 31 of the Act is not applicable and no question of claiming any right to administer and manage the college on hereditary basis. In fact, the government order in G.O.Ms.No.1045 Education Department, dated 08.06.1981 is not challenged so far. That apart, The petitioner is being one of the legal heir, now claiming the entire management and administration of the college. From 08.06.1981, the college is belongs to the government and the



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petitioner has no locus to claim entire college and administration.

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9. It is also seen that after taking over the college by the government, the revenue records were mutated from the original donor and after ascertaining records it was noted that the original donor viz., Rajah D Shanmuga Raja had gifted the lands in favour of the Management Committee of the college by the registered gift deed dated 02.11.1950. Subsequently, the Management Committee had re-conveyed the same in favour of the college by the registered document dated 05.05.1953. Therefore, the entire property belongs to the college and it has been taken over by the government. Once the college become government college, the land annexed with the college is also the government land. Accordingly the revenue records were mutated in the name of the college.

10. Further, the fifth respondent had issued order for transfer of some part of the land to Health department for the purpose of construction of medical college and hospital. Subsequently by way of permission granted by the fifth respondent vide proceedings dated 04.09.2008, for transfer of land from college to Health Department for



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the purpose of establishing medical college and hospital. Thereafter, the Health department had constructed a medical college along with government hospital and now it is serving the public at large.

11. In view of the above discussions, this Court finds no infirmity or illegality in the order passed by the respondents 1 & 5 and the writ petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

03.04.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
rts



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To
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