



WEB COPY



W.P.No.19412 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.01.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.19412 of 2021

and

WMP.No.20698 of 2021

M/s. Sri Ramakrishna Matriculation Hr. Sec. School,
Rep. by its Correspondent,
K.Solmuthu Azhaghan,
No.197, Anna Salai,
Arcot.

...Petitioner

vs.

1.The Joint Commissioner of Labour,
Integrated Labour Office Buildings, 1st floor,
Government Industrial Training Institute Complex,
Melmonavur, Abdullapuram,
Vellore-632 010.

2.The Assistant Inspector of Labour,
Arcot,
Ranipet District.

3.The Special Officer,
Private Schools Fee Determination Committee,
DPI Campus, Chennai-600 006.

...Respondents



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Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records in pursuant to an application dated 16.03.2020 given by the 2nd respondent to the 1st respondent under Section 20(2) of the Minimum Wages Act, 1948 and the consequent proceedings initiated by the 1st respondent in Case No. MW8 / 2020 dated 27.07.2021 against the petitioner school and quash the same.

For Petitioner : Mr.T.P.Prabakaran
For Respondents : Mrs.Mythrayee Chandru,
Special Government Pleader
for RR1 & 2

No appearance for R3

ORDER

Writ petition is filed to call for the entire records with reference to the application dated 16.03.2020 given by the 2nd respondent to the 1st respondent under Section 20(2) of the Minimum Wages Act, 1948 and the consequent proceedings initiated by the 1st respondent in Case No. MW8 of 2020 dated 27.07.2021 against the petitioner school.



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2. The petitioner states that the Private Schools Fee Determination Committee, Chennai passed an order on 31.01.2019 in respect of payment of salary to the non-teaching staffs working in the petitioner's school rejecting the petitioner's request to enhance the salary for ayahs, watchman and scavengers at Rs.10,000/- per month on the basis of the minimum wages fixed by the Government. The Committee inspite of the petitioner's objection passed an order on 08.04.2019 and fixed the fee for the petitioner's school for the academic years 2019-2020 by allowing 10% enhancement of the fee determined for the academic years 2018-2019. According to the petitioner whenever the Fee Committee called for fee approval proposal form, the petitioner claimed salary for the menial categories of workmen over the minimum wages fixed, but it was never appreciated by the Committee over the years. While so, the 2nd respondent calculated the minimum wages to the menial workers as per G.O.No.2D 61 Labour and Employment Department (J1) dated 26.06.2018 for the period from July 2019 to December 2019. The petitioner therefore states that the



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order of the Private Schools Fee Determination Committee, Chennai which is a statutory Committee will prevail over the administrative instructions issued under G.O.No. 2D 61 Labour and Employment Department (J1) dated 26.06.2018. The petitioner therefore states that the application filed by the 2nd respondent under Section 20(2) of the Act dated 16.03.2020 and the proceedings of the 1st respondent in Case No.MW8/2020 initiated on the basis of the said application is per se unsustainable and liable to be set aside.

3. The 1st respondent filed counter stating that the Government passed G.O.No.2D 61 Labour and Employment Department (J1) dated 26.06.2018 fixing the minimum wages for the category of drivers and for the categories of ayah and watchmen at Rs.9,959/- per month (Driver) and Rs.8,999/- per month (ayah and watchmen). The 1st respondent relied on Section 5 of Act and stated that the act provides for fixation of minimum wages and therefore in pursuance of the said provision, the Government



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passed the aforesaid G.O. The 1st respondent categorically denied the contention of the petitioner that the order of the Private Schools Fee Determination Committee will prevail over the G.O passed by the Government in pursuance of the provisions of the Minimum Wages Act. The 1st respondent further relied on the order of this Court dated 07.09.2011 in W.P.No.4353 of 2004 batch, wherein this Court upheld the Government Order fixing the minimum rates of wages for non-teaching staff. The 1st respondent therefore stated that, as the petitioner had not paid the minimum wages to the menial staffs like driver, ayah, watchman and scavengers employed by it, the 2nd respondent filed an application under Section 20(2) of the Act for non-payment of minimum wages to the aforesaid non-teaching staff about 18 in number.

4. The learned counsel for the petitioner submitted that the 3rd respondent inspite of the notice did not appear before this Court and therefore this Court cannot pass orders in the absence of the 3rd



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respondent. The learned counsel submitted that it was because of the 3rd respondent who refused to permit the petitioner to enhance the salary of menial workers to Rs.10,000/- per month, that the petitioner could not pay the minimum wages and therefore the petitioner could not be blamed. The learned counsel submitted that in any event, the petitioner was paying the wages as per the orders of the Private Schools Fee Determination Committee, which order would prevail over the Government order passed in G.O.No. 2D 61 Labour and Employment Department (J1) dated 26.06.2018, because the G.O was mere administrative instruction, whereas the Private Schools Fee Determination Committee was formed in pursuance to Tamil Nadu Schools (Regulation of collection of fee) Act, 2009. The learned counsel therefore prayed that the writ petition may be allowed.

5. The learned counsel for the respondents one and two on the other hand submitted that the G.O.No.2D 61 Labour and Employment



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Department (J1) dated 26.06.2018 was passed as per the provisions of the Minimum Wages Act and the application filed by the 2nd respondent for payment of difference in wages by the petitioner was also filed under Section 20(2) of the Minimum Wages Act, 1948. The learned counsel further submitted that this Court in W.P.No.4353 of 2004 batch vide order dated 07.09.2011 upheld similar Government Orders fixing the minimum rate of wages for non-teaching staff employed in schools. The learned counsel further submitted that the act provides for a period of revision of wages and it is only in pursuance of the provisions of the said act that G.O.No.2D 61 Labour and Employment Department (J1) dated 26.06.2018 was passed and therefore the contention of the learned counsel for the petitioner that the G.O. is only administrative in nature cannot be sustained. The learned counsel therefore prayed that there were no merits in the writ petition and the same deserved to be dismissed.



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6. I have considered the submissions of both the learned counsels and I have perused the materials placed on record.

7. Petitioner is a private school and it has both teaching and non-teaching staff like drivers, watchman, ayahs, scavenger etc. The 2nd respondent filed an application under Section 20(2) of the Minimum Wages Act, 1948 (Herein after referred to as Act) in form VII as per Rule 29 of the Minimum Wages (Tamil Nadu) Rules 1953 before the 1st respondent. In the said application the 2nd respondent stated that the petitioner was bound to pay the minimum wages for the drivers, ayahs and watchmen totalling 18 in number employed by the petitioner. The 2nd respondent stated that the petitioner was bound to pay a sum of Rs.3,42,604/- being difference in wages between the minimum wages fixed by the Government and the wages actually paid. The 1st respondent consequent to the application dated 16.03.2020 of the 2nd respondent initiated proceedings in Case No. MW8/2020 against the petitioner school. Aggrieved by the



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proceedings of the 1st respondent the petitioner has filed the present writ petition for the aforesaid relief.

8. It is seen that the 2nd respondent filed an application under Section 20(2) of the Act in form VII prescribed under Rule 29 of the Minimum Wages (Tamil Nadu) Rules, 1953 before the 1st respondent claiming a sum of Rs.3,42,604/- towards difference in wages fixed by the Government and the actual wages paid by the petitioner. In pursuance of the said application the 2nd respondent initiated proceedings in Case No. MW8/2020 against the petitioner's school. The petitioner even without filing his reply in the said proceedings rushed to this Court by filing the above writ petition. It is strange that eventhough the petitioner claimed the salary for menial staff at Rs.10,000/- on the basis of minimum wages before the Private Schools Fee Determination Committee, the petitioner has filed the present writ petition disputing the minimum wages fixed by the Government. The petitioner is adopting double standards and therefore it



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is clear that the petitioner merely wants to stall the proceedings. The submission of the learned counsel for the petitioner that the presence of the 3rd respondent i.e. Special Officer, Private Schools Fee Determination Committee is absolutely necessary for deciding the writ petition, in my view is untenable. When the petitioner's admitted stand before the 3rd respondent is that he should be permitted to pay minimum wages, I see no purpose in summoning the 3rd respondent. Even otherwise it is seen that inspite of service of notice the 3rd respondent has not appeared. Be that as it may, the petitioner even without appearing before the 1st respondent inspite of notice of hearing dated 27.07.2021, filed the writ petition. In my view the petitioner cannot be permitted to stall the proceedings without justifiable reasons. The petitioner is therefore directed to appear before the 1st respondent and it is needless to state that the petitioner is at liberty to raise all objections.



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9. In view of the above, the 1st respondent is directed to give notice of hearing to the petitioner and thereafter pass orders within a period of eight (8) weeks from the date of receipt of a copy of this Order.

In view of the above, I find no merits in the writ petition and the same is dismissed with the aforesaid directions. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

29.01.2023

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No

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To

1.The Joint Commissioner of Labour,
Integrated Labour Office Buildings, 1st floor,
Government Industrial Training Institute Complex,
Melmonavur, Abdullapuram,
Vellore-632 010.

2.The Assistant Inspector of Labour,
Arcot,
Ranipet District.

3.The Special Officer,
Private Schools Fee Determination Committee,
DPI Campus,
Chennai-600 006.



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N.MALA,J.

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