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W.P.No.10042 of 2021

In the High Court of Judicature at Madras

Reserved on: 27.03.2024

Delivered on : 03.06.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.10042 of 2021

and WMP.No.10675 of 2021

Abel Samuel Wilson (deceased)

2.R.Parijatham

3.Daniel Wilson

(P2 and P3 substituted as Lrs of deceased sole petitioner vide order dated 09.01.2023 made in WMP.No.31256/2022)

... Petitioner

-Vs-

1.The Joint Director of Elementary Education
(Aided School), College Road, Chennai 600 008.

2.The Chief Educational Officer,
Namakkal District, Namakkal.

3.The District Elementary Educational Officer,
Namakkal District, Namakkal

4.The Assistant Elementary Educational Officer,
Sendamangalam panchayat Union,
Sendamangalam, Namakkal District.



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5. The Church Committee,

rep.by its Pastor,

S.B.M. School Compound,

Senthamangalam, Namakkal District.

... Respondents

PRAYER : Writ Petition filed under Article 227 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent issued in proceedings in Na.Ka.No.12682/F2/2019 dated 23.09.2019 and quash the same and issue a consequential direction to the respondents 1 and 2 to approve the petitioner as educational agency for strict Baptist Mission, Middle School, Senthamangalam, Namakkal District.

For Petitioner : Mr.D.J.Adinarayanan

For Respondents : Mr.P.Gurunathan

Additional Government Pleader for R1 to R4

ORDER

This Writ Petition is filed to call for the records of the 1st respondent in proceedings dated 23.09.2019, whereby the representation of the petitioner was rejected to approve him as educational agency. He seeks further direction to the respondents 1 and 2 to approve the petitioner as educational agency for strict Baptist Mission, Middle School, Senthamangalam, Namakkal District.



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2. It is averred in the writ petition that the Strict Baptist Mission Middle School at Sendamangalam, Namakkal District, is a private aided middle school, received teaching grant from the Government of Tamil Nadu. Initially the petitioner's aunt viz., Selvi.Eben Samuel was working as a Teacher in the said School. Later the School Trust had transferred the Management of the School in favour of his aunt vide Certificate dated 26.03.1974, recognized herself as a Manager and Correspondent. The petitioner contends that his aunt is an educational agency as per Section 3 of the Tamil Nadu Recognised Private Schools (Regulation Act) 1973 and administered the School till her death on 11.10.1992.

3. It is stated by the petitioner that the ownership of the school is devolved upon her legal heir. Further since his aunt died as spinster and without any issues, the petitioner who is the son of her blood brother and being nominee in respect of her pension, is entitled to manage the affairs of the School. However, one Gnanathickam and James who are said to be the members of the local committee, constituted by the petitioner's aunt, claim ownership of the said School on the ground that the school vests with the local committee.



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4. The petitioner resisting their claim, filed O.S.No.974 of 1992 before the Additional District Munsif Court, Namakkal. The said Suit was dismissed. Against which, he preferred Appeal in A.S.No.77 of 1995, which was also dismissed. Challenging the Appeal Suit, the petitioner filed S.A.No.809/1999 before this Court, wherein this Court has passed order dated 30.08.2000, directed the Educational authorities constituted under the Act, to issue notice to the parties concerned and decide the right of the parties. Hence, the petitioner made a representation to the 4th respondent on 25.03.2002 to decide the right over the school.

5. It is further contended by the petitioner that the said authority vide his proceedings dated 03.04.2002, directed the petitioner to produce the legal heir certificate, without considering the nomination form given by him. The petitioner also sent detailed representation to the 2nd respondent on 03.05.2007 enclosing all the relevant materials for the said approval. After several efforts of the petitioner, the 2nd respondent considered his representation by passing rejection order dated 28.01.2008, on two grounds that the right of management is not a personal property of the petitioner's aunt as a local committee is formed



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to manage the school for administrative convenience and further any dispute as to the right of management of Private School Regulation Act has to be decided by the competent Civil Court as per Section 53(A) of the Tamil Nadu Private Schools Regulation Act.

6. Against the order of the 2nd respondent dated 28.01.2008, the petitioner has filed W.P.No.15712/2008, whereby this Court by order dated 07.07.2008 permitted the petitioner to file an appeal before the appellate authority viz., 1st respondent. As per the direction, the petitioner has also filed appeal before the 1st respondent. The 1st respondent by order dated 23.04.2009, rejected his claim on the ground that he has not adduced any evidence to show that he is the legal heir of the said Eben Samuel. Challenging the proceedings of the 1st respondent, the petitioner again filed W.P.No.16734 of 2009, for Writ of Certiorarified Mandamus to quash the order of the 1st respondent dated 23.04.2009 and for a direction to the respondents 1 and 2 to approve the petitioner as Educational Agency. This Court by order dated 11.01.2012 had allowed the said writ petition and directed the 2nd respondent to consider the matter afresh.



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7. Meanwhile, the petitioner has filed O.P.No.230/2011 before this Court for grant of Letters of Administration without Will to the petitioner as the legal heir of the deceased aunt viz., Eben Samuel. The said O.P was also ordered. Thereafter, the petitioner made several representations to the respondents 1 to 4 to approve the petitioner as educational agency. The 2nd respondent vide his proceedings dated 25.01.2012 rejected his claim. Against which, the petitioner has preferred appeal to the 1st respondent on 23.07.2012. The 1st respondent by his proceedings dated 23.09.2019, rejected his representation on the ground that he has not produced any Legal heir Certificate issued by the Revenue Department. Aggrieved by the rejection order of the 1st respondent, the petitioner filed this writ petition.

8. The case of the respondents is that the writ petitioner claimed right to manage the school in the capacity of her brother's son. The Strict Baptist Mission Trust authorised the petitioner's aunt to act as Educational Agency, which does not mean the School was her own property and can transfer the School as per her will to her legal heirs. Further in the capacity of her brother's son, the petitioner does not confer any right to own the property of the school.



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Hence, the respondents did not hand over the school to the writ petitioner or to the rival party to manage the school.

9. Further the respondents would contend that the writ petitioner had lost in all his legal battle before the competent authority of the Education Department, before the Trial Court as well as before the Appellate Court and also before this Court. Further, the 1st respondent before passing the impugned order, had considered the facts and circumstances of the case and being not satisfied with the evidence produced before him, had rightly rejected the petitioner's claim.

10. Heard both sides and perused the records carefully.

11. The management of school must be free of control so that the Educational Agency which is running the school can mould the institution as they think fit, and in accordance with their ideas of how the interests of the students and the institution in particular will be best served. No part of this management can be taken away and vested with any other person unconnected with the school to manage the affairs just because he is the nominee in respect



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of the pension of the Teacher who was the head of the Management of the School.

12. The right of the State to regulate education, educational standards and allied matters cannot be denied even in the case of Private Educational Agency conducting the school. In protecting the interest of the education to the students and also the welfare of teachers, the 1st respondent by order dated 23.04.2009 rejected the claim of the petitioner holding that he has not adduced any evidence to show that he is the legal heir of the erstwhile Management viz., Eben Samuel. Even thereafter when the matter was considered afresh it was decided by the respondent-Education Department that there is no provision to handover the management to the legal heir of erstwhile Management of the School viz., Selvi.Eben Samuel. It is further pointed out that Strict Baptist Mission by their letter dated 26.05.1974 empowered the Management to handover the Management to the local Committee to manage the affairs and not to the legal heirs of the Management. It was also pointed out that there was no evidence in respect of the transfer of the documents on the side of Education Department to show that the School Management is transferred in the name of Eben Samuel. Further it is very much seen that Selvi.Eben Samuel



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held the post of Headmistress of the school and therefore, she was managing the affairs of the school as in-charge of the Management. Further, the claim of the petitioner has been rejected by the civil court. The Strict Baptist Mission, vide their letter dated 26.05.1974 stated that Selvi. Eben Samuel was given powers to handover the full administration of the school to the Local Committee. It was further pointed out by the Deputy Director (Aided Schools) that the petitioner has not proved with any substantial evidence that he is the legal heir of the Eben Samuel and therefore, the claim of the petitioner for running the school administration and the property to him, was rightly rejected by the authority.

13. The State Government has the regulatory power upon the school and as such the authority has rightly passed the impugned order rejecting the petitioner's claim. I do not find any basic conditions are fulfilled or substantive documents furnished by the petitioner in support of his claim.

14. The legal heir certificate would not confer any special status upon the petitioner to claim for school management which is a Mission now under administration by the Local Committee.



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15. In the result, the writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

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(Aided School), College Road, Chennai 600 008.

2.The Chief Educational Officer,
Namakkal District, Namakkal.

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