



W.P.(MD)No.11251 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 09.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.11251 of 2024
and WMP(MD) Nos.10005 & 10006 of 2024

S.Anitha

... Petitioner

Vs

1. The Director of Elementary Education,
College Road, Chennai – 600 009.

2. The Joint Director of Elementary Education,
Madurai Zone,
Madurai.

3. The District Elementary Educational Officer (Elementary Education),
Sivakasi,
Virudhunagar District.

4. The Block Educational Officer,
Rajapalayam,
Virudhunagar District.

5. K.Soundararajan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order issued by the 3rd respondent vide his proceedings in



W.P.(MD)No.11251 of 2024

Na.Ka.No. 1369/A3/2023, dated 09.05.2024 pending disposal of the above writ petition and quash the same as illegal.

For Petitioner : Mr. S.Maruthu Pandian
For Respondents : Mr.T.Amjad Khan (R1-R4)
Government Advocate
Mr.C.Venkatesh Kumar (R5)
for M/s.Ajmal Associates

ORDER

This Writ Petition has been filed challenging the impugned order issued by the 3rd respondent vide his proceedings in Na.Ka.No. 1369/A3/2023, dated 09.05.2024 pending disposal of the above writ petition.

2.Heard Mr.S.Maruthu Pandian, the learned counsel appearing for the petitioners, Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 to 4 and Mr.C.Venkatesh Kumar, learned counsel appearing for R5. Perused the materials available on record.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



W.P.(MD)No.11251 of 2024

4.It is the case of the writ petitioner that she is the Secretary of Kalvithanthai K.Sundarampillai Ninaivu Kalvi Servai Nirvaga Sangam. The said Society runs a Government aided Primary School, viz., Saraswathy Primary School, Muthusampuram. The 5th respondent illegally claimed to be the Secretary.

5.Challenging the Secretaryship, the 5th respondent has filed a writ petition and the same was remanded back to the 3rd respondent for fresh consideration. Pursuant to the same, the 3rd respondent has directed the parties to approach the Civil Court and seek remedy. Thereby, the petitioner has filed a civil suit in O.S.No.44 of 2024 seeking declaration. Pursuant to the suit, the 5th respondent now trying to close the School with the collusion of respondents 3 & 4. In this regard, the 5th respondent sent a representation to the 3rd respondent to close the School. Based on the representation, the impugned order came to be passed. The impugned order cannot be sustainable.

6.The learned Government Advocate appearing for the respondents 1 to 4 submitted that the 5th respondent already challenged the impugned order before this Court in WP(MD) No.12259 of 2024, this Court vide order, dated



W.P.(MD)No.11251 of 2024

12.06.2024 dismissed the writ petition. It is further contention that such order has been passed pursuant to the direction of Division Bench in WP(MD) No.1289 of 2011 etc., batch.

7. So far as the closure of school is concerned, the Division Bench in batch of writ petitions in WP(MD) No.1289 of 2011 etc., batch, vide order dated 05.02.2024 has held as follows:

“13. In this regard, we are of the view that it is for the authority concerned to decide for closure of the School. However, closure of the School in the midst of the Academic Year would definitely affect the students education. Therefore, the School shall not be closed till this Academic Year 2023-2024. Thereafter, the parents shall give their options to the authority concerned to shift the students to the nearby Schools. On such event, the authority concerned shall consider the same positively and shift the students to the nearby Schools at the choice of the parents.”

8. Now pursuant to the same direction, the impugned order is passed. It is relevant to note that the same impugned order already challenged before this Court in WP(MD) No.12259 of 2024 by the 5th respondent, this Court citing the Judgment of Division Bench, dismissed that writ petition.



W.P.(MD)No.11251 of 2024

9.The impugned order mainly deals with the transfer of the 5th respondent. When the 5th respondent failed in his attempt, now the petitioner has filed this writ petition, as if, she is the Secretary. What she could not achieve directly, to achieve the same by indirect means this writ petition is filed. Since the order with regard to the impugned order already reached its finality and the same has not been challenged so far, once again by filing another writ petition to challenge the same impugned order, which was already confirmed by this Court, is not maintainable.

10.Accordingly, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.08.2024

NCC : Yes/No
Index : Yes/No
PNM



W.P.(MD)No.11251 of 2024

To

1. The Director of Elementary Education,
College Road, Chennai – 600 009.

2. The Joint Director of Elementary Education,
Madurai Zone,
Madurai.

3. The District Elementary Educational Officer (Elementary Education),
Sivakasi,
Virudhunagar District.

4. The Block Educational Officer,
Rajapalayam,
Virudhunagar District.



WEB COPY



W.P.(MD)No.11251 of 2024

N.SATHISH KUMAR, J.

PNM

ORDER IN

W.P.(MD)No.11251 of 2024

and WMP(MD) Nos.10005 & 10006 of 2024

09.08.2024