



W.P(MD)No.14469 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14469 of 2024

T.S.Kalyanasundar

... Petitioner

Vs.

1. Director of School Education,
Directorate of School Education,
DPI Complex College Road,
Chennai.

2. Joint Director Higher Secondary Education,
Directorate of School Education,
DPI Complex College Road,
Chennai.

3. The Chief Educational Officer,
Office of the Chief Educational Officer,
Tenkasi.

4. Ramasamy Pillai Higher Secondary School,
Rep. by its Secretary,
Ilanji, Via Tenkasi,
Tenkasi District - 627 805.

... Respondents

*(R4 is suo motu impleaded vide order dated
03.07.2024 in W.P.(MD)No.14469 of 2024 by GRSJ)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 1st respondent herein to dispose of the Appeal proceedings initiated based on the petitioners representation dated 13.05.2024 which pending on the file of the 1st respondent within the time frame fixed by this Court.



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For Petitioner : Mr.V.Shanthurthi Raja,
For Mr.S.Kadarkarai.

For Respondents : Mr.M.Sarangan,
Addl. Government Pleader for R1 to R3.
Mr.V.Meenakshi Sundaram,
For Mr.D.Nallathambi for R4.

ORDER

Heard both sides.

2.The petitioner lodged a complaint that the management of the fourth respondent school has been indulging in excess collection of fees. He filed W.P.(MD)No.1564 of 2020 and a direction was given to the district committee on 10.04.2023. The petitioner also filed Cont.P.(MD)No.2040 of 2023 in this regard. Finally, the district committee went into the issue and gave clean chit to the management vide proceedings dated 07.03.2024. Challenging the same, the petitioner filed a representation dated 13.05.2024 before the Director of School Education. Seeking disposal of the same, this writ petition has been filed.

3.The stand of the petitioner is that he has filed an appeal and he is entitled to seek its disposal.



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4.The learned counsel for the fourth respondent submitted that the petitioner has no statutory right to file any appeal before the first respondent. According to the school management, this writ petition itself is not maintainable. The learned Additional Government Pleader for the official respondents endorsed the stand taken by the fourth respondent. The respondents pray for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 provides for regulation of collection of fees by schools in the State of Tamil Nadu. It provides for constitution of fee determination committee and also district committees constituted under Section 11 of the Act. Section 11 of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 is as follows:-

“11.District Committee

(1) There shall be a District Committee in every revenue district, which shall consist of the Chief Educational Officer of the district as Chairperson and such other members as may be prescribed.

(2) The District Committee or any member of the said committee authorised by it in this behalf may, at any time, during the normal working hours of any private school, enter such private school or any premises thereof or any premises belonging to the management of such



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private school if it or he has reason to believe that there is or has been any contravention of the provisions of this Act or the rules made thereunder and search and inspect any record, accounts, register or other document belonging to such private school or of the management, in so far as any such record, accounts, register or other document relates to such private school and seize any such record, accounts, register or other document for the purpose of ascertaining whether there is or has been any such contravention.

(3) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall apply, so far as may be, to search and seizure under sub-section (2)."

6.The said statute contains 16 sections in all. As rightly pointed out by the learned counsel for the fourth respondent, there is no appeal provision incorporated in the said statute. It is well settled that there is no inherent right to file an appeal. Right of appeal is a statutory right. It has to be specifically conferred by law. If law does not provide for an appeal, a person aggrieved by an administrative decision will have to necessarily go before the jurisdictional Court.

7.The learned counsel for the petitioner endeavoured to overcome this impediment by pointing out that under Section 13 of the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009, the provisions of the Act are in



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addition to, and not in derogation of, any other law for the time being in force.

He contended that since Section 41 of the Tamil Nadu Private Schools (Regulation) Act, 2018 which should be read along with Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 provides for an appeal remedy, the petitioner was entitled to move the first respondent.

8. Section 41 of the Tamil Private Schools (Regulation) Act, 2018 is as follows:-

“41. Appeal against orders of Competent Authority

Any person aggrieved by any order, decision or direction of the competent authority made under any of the provisions of this Act, or the rules made thereunder, may within a period of one month from the date of receipt of such order, decision or direction, prefer an appeal to the appellate authority as may be prescribed.”

9. It is true that appeal is remedy is provided against orders of the competent authority. The expression “competent authority” is defined in Section 2(f) of Act 35 of 2019. It is as follows:-

“(f) “competent authority” means any authority, officer or person authorized by the Government to perform the functions and discharge the duties of the competent authority under this Act for such area, for such purposes or in relation to such classes of private schools,



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as may be prescribed;”

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10.The competent authority envisaged under the Act must discharge functions set out in Tamil Nadu Act 35 of 2019. The district committee constituted under Tamil Nadu Act 22 of 2009 cannot be called as competent authority under Tamil Nadu Act 35 of 2019.

11.If an authority lacks jurisdiction, the Writ Court cannot confer jurisdiction. Direction to consider representation cannot be issued to an authority who does have jurisdiction. If the petitioner is aggrieved by the decision of the district committee, his remedy is to invoke the writ jurisdiction of this Court or any other remedy as may be available under the law. The first respondent is not competent to revisit the decision taken by the district committee. It is for this reason, I decline to issue the direction as sought for. The writ petition is dismissed. No costs.

19.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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