



W.P.(MD)No.5049 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.5049 of 2017

and

W.M.P.(MD).Nos.4066, 6665, 5944 & 4067 of 2017

Sourashtra Kalvi Kuzhu,
Represented by its Secretary and Correspondent,
S.G.Rengan ... Petitioner
(Petitioner is amended vide Court Order dated 11.09.2024
in W.M.P.(MD).No.18525/2024 in W.P.(MD).No.5049 of 2017)

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Education Department,
St.George Fort, Secretariat,
Chennai.
- 2.The Director of School Education,
O/o. Director of School Education,
Chennai.
- 3.The District Collector,
Ramanathapuram,
Ramanathapuram District
- 4.The Personal Assistant to District Collector,
(Noon Meal Scheme),
Ramanathapuram District.



W.P.(MD)No.5049 of 2017

5. The Commissioner,
Panchayat Union, Paramakudi,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Notification in Na.Ka.No.39853/2016 dated 06.03.2017 on the file of the Respondent No.4 and quash the same as illegal in so far as S.No.2 and 56 in the Communal Turn List and consequently for a direction, directing the Respondents to include the Petitioner / School in the list of Minority institutions within the time period stipulated by this Court.

For Petitioner	: Mr.Karthik Raja for M/s.Ajmal Associates
For R-1 & R-2	: Mr.T.Amjad Khan, Government Advocate
For R-3 to R-5	: Mrs.D.Farjana Ghoushia, Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned Notification dated 06.03.2017, issued by the fourth respondent, treating the petitioner as a non minority institution with regard to Serial Nos.2 and 56 respectively and the fourth respondent has declared that the petitioner should follow the communal rotation under the impugned Notification dated 06.03.2017.



W.P.(MD)No.5049 of 2017

2. However, the petitioner categorically contends that they are linguistic minority institutions and therefore, following the communal rotation with regard to Serial Nos.2 and 56 does not arise.

3. A counter affidavit has been filed by the official respondents denying the contentions of the petitioner as raised in this Writ Petition and by reiterating that the impugned Notification has been issued correctly.

4. Learned counsel appearing for the petitioner has placed on record the recent proceedings dated 24.05.2024, received by the petitioner, from the District Educational Officer referring to the petitioner as a minority institution.

5. However, learned Government Advocate appearing for respondent Nos.1 and 2 would submit that the said proceedings dated 24.05.2024 has been issued recently and cannot be made applicable for the petitioner's Institution when this Writ Petition was filed and therefore, the impugned Notification dated 06.03.2017 issued by the fourth respondent is correct.

6. In the counter affidavit filed by the respondents before this Court, they have not categorically stated that the petitioner is not a minority institution.



W.P.(MD)No.5049 of 2017

Under the impugned Notification, the same has been made applicable to the petitioner on the ground that the petitioner is not a minority institution. The petitioner has categorically pleaded in the affidavit filed in support of this Writ Petition that they are a linguistic minority institution and therefore, the impugned Notification calling upon them to apply the communal roster with regard to Serial Nos.2 and 56 cannot be made applicable to them.

7. Admittedly, for a minority institution, the communal rotation cannot be made applicable. Only on the ground that the petitioner is a non minority institution, the fourth respondent has made the impugned Notification applicable to the petitioner. When the petitioner has categorically stated that they are a minority institution and the learned counsel appearing for the petitioner has also produced the proceedings of the District Educational Officer dated 24.05.2024, received by the petitioner very recently, which goes to show that the petitioner is a minority institution and there is no categorical averment made in the counter affidavit filed by the official respondents that the petitioner is not a minority institution, this Court, in the ends of justice, will have to direct the fourth respondent to reconsider the impugned Notification with regard to the applicability of the same to the petitioner, since the petitioner categorically contends that they are a minority institution, for whom the impugned Notification cannot be made applicable.



W.P.(MD)No.5049 of 2017

WEB COPY 8. In the result, the Writ Petition is disposed of by directing the fourth respondent to reconsider the applicability of the impugned Notification in Na.Ka.No.39853/2016 dated 06.03.2017 to the petitioner, after giving due consideration to the contention of the petitioner that being a minority institution, the same cannot be made applicable to them. The petitioner is permitted to produce all the documents in support of their stand taken in this Writ Petition before the fourth respondent and the fourth respondent shall consider the same and pass final orders on merits and in accordance with law as directed by this Court supra, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



W.P.(MD)No.5049 of 2017

To

- 1.The Secretary,
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- 2.The Director of School Education,
O/o. Director of School Education,
Chennai.
- 3.The District Collector,
Ramanathapuram,
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- 5.The Commissioner,
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W.P.(MD)No.5049 of 2017

ABDUL QUDDHOSE, J.

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W.P.(MD)No.5049 of 2017

30.09.2024