



W.A.(MD).No.2390 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

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and

C.M.P.(MD).Nos.16492 and 16493 of 2024

G.Rajan,
Secretary,
R.M.V. Middle School,
Sirunadar Kudiyiruppu,
Kulasekarapattinam Via,
Tiruchendur Taluk,
Tuticorin District.

... Appellant/Petitioner

Vs.

- 1.The Director,
Directorate of School Education Department,
DPI Complex,
College Road,
Chennai.
- 2.The Chief Educational Officer,
Tuticorin District,
Tuticorin.
- 3.The District Educational Officer (Primary),
Tuticorin District,
Tuticorin.



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4.The Block Educational Officer,
Udankudi Block,
Udankudi,
Tuticorin District.

5.P.Parvathadevi,
Headmistress,
No.73, Renganathapuram,
Udankudi, Tiruchendur Taluk,
Tuticorin District.

6.The School Committee,
R.M.V. Middle School,
Sirunadar Kudiyiruppu,
Kulasekarapattinam Via,
Tiruchendur Taluk,
Tuticorin District.

... Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 05.08.2024 passed in W.P.(MD).No.17527 of 2024 on the file of this Court and allow the Writ Appeal.

For Appellant	: Mr.Isaac Mohanlal Senior Counsel for Mr.R.R.Kannan
For R-1 to R-4	: Mr.J.Ashok Additional Government Pleader
For R-5	: Mr.T.Lajapathi Roy Senior Counsel for Mr.M.Mahaboob Fazil
For R-6	: Mr.Rajiv Rufus



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JUDGMENT

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(Judgment of the Court was made by M.S.RAMESH,J.)

The present Writ Appeal has been filed challenging the order passed by the learned Single Judge in W.P.(MD).No.17527 of 2024 dated 05.08.2024.

2. The appellant herein had challenged the order passed by the third respondent dated 01.07.2024, cancelling his Secretaryship and bringing the School under direct control of the Department, through a Writ Petition in W.P. (MD).No.17527 of 2024, predominantly on the ground that there were procedural irregularities while exercising powers under Rule 25(5) of the Tamil Nadu Private Schools (Regulation) Rules, 2023 (hereinafter referred to as '2023 Rules').

3. According to the learned Senior Counsel appearing for the appellant, when the third respondent herein had passed the cancellation order, he is mandated to give the appellant an opportunity of being heard, as per Rule 25(5) of the 2023 Rules.



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4. The learned Single Judge while dismissing the Writ Petition and granting liberty to the appellant to file an appeal under Section 41 of the Tamil Nadu Recognized Private Schools (Regulation) Act, had also rejected the ground raised by the appellant, with regard to denial of the opportunity of being heard, by holding that a show cause notice was issued prior to passing of the cancellation order, to which, the appellant had also given his reply and therefore, there was no violation of principles of natural justice.

5. Rule 25(4) and 25(5) of the 2023 Rules reads as follows:

“25. Secretary of the School Committee.-

...

(4) Where the competent authority is convinced that the Secretary or any member of the school committee is responsible for any lapse or irregularity in managing the affairs of the school, the competent authority shall instruct the educational agency to remove such person from the office of the Secretary or the member of the school committee, as the case may be.

(5) If the educational agency has wilfully failed to comply with the direction of the competent authority to remove the Secretary or the member of the school committee, the competent authority shall remove such person from the office of the Secretary or the member of the school committee, as the



case may be, after giving such person or the member of the school committee an opportunity of being heard.”

6. As per the aforesaid Rules, when the competent authority intends to take action against the Secretary or any member of the School Committee, he is required to instruct the educational agency to pass orders for removing the person from the office of the Secretary or Member of the School Committee. Even after such instructions, if the educational agency fails to comply, the competent authority shall remove the Secretary/Member of the School Committee from their respective offices. However, Sub-rule (5) mandates for extending a due opportunity to such person of being heard. The language employed under Sub-rule (5) makes the opportunity of personal hearing mandatory and any order passed by the competent authority under Sub-rule (5), without extending a due opportunity of personal hearing, would amount to violation of the principles of natural justice.

7. In the instant case, it is not in dispute that such an opportunity, as required under Rule 25(5) of the 2023 Rules, was not extended to the appellant. While that being so, the consequential cancellation order would be in violation of the principles of natural justice and hence, the appellant would be justified in invoking the extraordinary jurisdiction of the writ Court under Article 226 of



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the Constitution of India, without availing the appellate remedy under Section 41 of the Tamil Nadu Recognized Private Schools (Regulation) Act, which legal proposition has been reiterated in a catena of decisions of the Hon'ble Supreme Court, including the decision in *Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others* reported in (1998) 8 SCC 1.

8. In the light of the above discussion, the order of the learned Single Judge, deflecting the appellant to avail the statutory appellate remedy, cannot be sustained. However, we are of the considered view that the third respondent herein could be extended an opportunity to take further course of action in this matter, after extending due opportunity of personal hearing to the appellant.

9. In the light of the above observations and findings, the order passed by the learned Single Judge in W.P.(MD).No.17527 of 2024 dated 05.08.2024, is set aside and the matter is remitted back to the third respondent herein, who shall take further course of action, after consideration of the explanation given by the appellant to the show cause notice on 18.06.2024 and 21.06.2024, as well as extending due opportunity of personal hearing to the appellant. Such orders shall be passed at least within a period of two (2) months from the date of receipt of a copy of this order.



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10. The Writ Appeal stands allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (A.D.M.C.,J.)
21.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

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

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

3.The District Educational Officer (Primary),
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