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W.A(MD)Nos.2168 to 2170 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD)Nos.2168 to 2170 of 2023

and

C.M.P(MD)Nos.17348, 17349, 17359 and 17360 of 2023

and

C.M.P(MD)Nos.361, 362 and 364 of 2023

W.A(MD)Nos.2168 and 2169 of 2023:

Diana Anne Rajammal,
Headmistress,
St. Anthoniyar Girls Higher Secondary School,
Veerakeralampudur,
Tenkasi District.

... Appellants in all W.As/6th respondent

Vs.

1 A.Baskara Pandiyan
S/o. Anna Samy,
No.3/110, Vedakovil North Street,
Veerakeralampudur Taluk,
Tenkasi District 627 861.

2 The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George,
Chennai 600 009.



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- 3 The Commissioner,
Directorate of School Education,
DPI Campus,
Nungambakkam,
Chennai-06.
- 4 The Joint Director (Higher Secondary),
Directorate of School Education,
DPI Campus, Nungambakkam, Chennai- 06.
- 5 The Chief Educational Officer,
Tenkasi, Tenkasi District.
- 6 The District Educational Officer,
Tenkasi, Tenkasi District.

... Respondents 2 to 6 in both /Respondents 1 to 5

PRAYER : Appeals filed under Clause 15 of the Letters Patent Act, against the order dated 19.09.2023 in W.P(MD)Nos.25331 and 25332 of 2022 insofar as the clause granting interim stay in favour of the first respondent till the disposal of the suit filed by the first respondent herein alone.

W.A(MD)No.2170 of 2023:

1. Diana Anne Rajammal,
Educational Agency,
Manager and Correspondent,
St. Anthoniyar Girls Higher Secondary School,
Veerakeralampudur,
Tenkasi District.
2. Diana Anne Rajammal,
Educational Agency, Manager and Correspondent,
Anna Boys Higher Secondary School,
Veerakeralampudur, Tenkasi District.



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3. Diana Anne Rajammal,
Educational Agency, Manager and Correspondent,
Anna Primary School,
Veerakeralampudur, Tenkasi District. ... Appellants/third party

Vs.

1. St. Annammal Educational Trust,
Represented by its Managing Trustee,
Mr.A.Baskara Pandiyan,
No.3/110, Vedakovil North Street,
Veerakeralampudur Taluk,
Tenkasi District 627 861.

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

3. The District Educational Officer,
Tenkasi Educational District,
Tenkasi District.

... Respondents 2 & 3/
Respondents 1 and 2

PRAYER : Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 19.09.2023 in W.P(MD)No.9736 of 2022 insofar as the clause granting interim stay in favour of the first respondent till the disposal of the suit filed by the first respondent herein alone.

(In all W.As)

For Appellant	:Mr.K.Chellapandian, Learned Senior Counsel for Mr.T.Pon Ramkumar
For R-1	:Mr.A.K.Basakarapandian,
For R2 to R6	:Mr.D.Sadiq Raja, Additional Government Pleader



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COMMON JUDGMENT

[Judgment of the Court was delivered by D.KRISHNAKUMAR, J.]

These writ appeals have been filed challenging the order of the learned Single Judge, dated 19.09.2023 made in W.P(MD)Nos.25331, 25332 and 9736 of 2022 respectively, insofar as the Clause granting interim stay in favour of the first respondent till the disposal of the suit filed by the first respondent is concerned.

2. By consent of parties, the writ appeals are taken up for final disposal.

3. According to the appellant, there is change of Educational Agency on the death of appellant's grandfather Mr.Annasamy based on the judgment and decree passed by the civil Court in O.S.No.736 of 2007 on the file of the Additional District Munsif Court, Tenkasi. The appellant has sent a proposal for recognizing them as Educational Agency under Section 8 of the Tamilnadu Recognized Private Schools Regulation Act, 1973 and the Educational Authority has issued a show-cause notice to the appellant to explain as to why the approval granted to the appellant shall not be cancelled. That show-cause notice was challenged by the appellant in



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W.P(MD)No.20964 of 2022 and interim order was granted in the said writ petition and when the interim order is in force till the disposal of the writ petition, simultaneously, the first respondent herein filed writ petitions in W.P(MD)Nos.25331 and 25332 of 2022, challenging the approval of educational agency in the name of the appellant by the District Educational Officer, dated 01.11.2021 and 31.03.2022, in respect of Anna Boys Higher Secondary School, Veerakeralamputhur, Tenkasi District and also got interim stay on 19.11.2022. Subsequently, on 19.09.2023, the writ petition in W.P(MD)No.20964 of 2022 was allowed setting aside the show-cause notice. Therefore, according to the appellant, transfer of Educational Agency in the name of the appellant has been in force.

4. The first respondent/writ petitioner Mr.A.Baskara Pandiyan, has filed one another writ petition in W.P(MD)No.9736 of 2022, seeking to direct the District Educational Officer to approve the Secretaryship of the Institutions run by the petitioner's Trust pursuant to the proposal submitted by him on 15.02.2022.

5. The writ petitions in W.P(MD)Nos.9736, 25331 and 25332 of 2022 were taken up for final disposal on the same day. The learned Single Judge disposed of the said writ petitions with some observations, vide common order, dated 19.09.2023. Relevant portion of the said order reads as under:



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“6.In the Tamil Nadu Recognized Private Schools (Regulation) Act, 2018 also there is a corresponding provision namely, Section 56 which is also in pari materia. I have no doubt whatsoever in my mind that a genuine dispute has arisen as to who should be recognized as the Correspondent / Manager of the schools. The Writ Court is not competent to go into factual dispute such as the one on hand. Baskara Pandian is permitted to avail the remedy under Section 53-A of the Act. Such a suit shall be filed by him within a period of three weeks from the date of receipt of a copy of this order. It is for Baskara Pandian to file the suit because it is he who filed the present writ petitions. Merely because Baskara Pandian will be figuring as the plaintiff in the statutory suit, that does not mean that extra burden is on him. The Government, the Education Department and Diana Anne Rajammal will be figuring as defendants. Diana Anne Rajammal will be the contesting defendant. Subject to Basakara Pandian filing such a suit within three weeks from the date of receipt of a copy of this order, the interim order earlier granted is made absolute till the disposal of the suit. If Basakara Pandian fails to file the suit within the time mentioned above, the interim order will stand vacated. The suit if filed will be disposed of in eight months from the date of institution. I make it clear that I have not gone into the merits of the matter.”

6. Aggrieved by the aforesaid order, the above writ appeals have been filed by the appellants.



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7. Mr.K.Chellapandian, learned Senior Counsel assisted by Mr.T.Pon Ramkumar, appearing for the appellants would contend that in the backdrop of the case, the learned Single Judge ought not to have passed such order by making the interim order absolute till the disposal of the civil suit. According to him, it is a case where transfer of Educational Agency has been approved by the Authority on 01.11.2021 and the first respondent Basakara Pandiyan chose to file a writ petition in the year 2022 ie., after a period of one year from the approval of Educational Agency, which is functioning from the date of approval. Therefore, being aggrieved by the order passed by the learned Single Judge, the above writ appeals have been filed seeking modification of the said order.

8. Even though Mr.A.K.Baskarapandian, learned counsel appearing for the first respondent, has objected the said contention of the appellant stating that the first respondent has approached this Court by filing W.P(MD)Nos.25331 and 25332 wherein interim stay was also granted on 19.11.2022 at the admission stage itself and therefore, according to him, from the date of granting of interim order, the appellant has not acted as an Educational Agency till the disposal of the writ petitions and therefore, no interference is called for in the order of the learned Single Judge and seeks for dismissal of these writ appeals.



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9. The learned counsel for the first respondent would further submit that as directed by the learned Single Judge, the first respondent has already filed a civil suit in O.S.No.657 of 2023 on the file of the Principal Sub-Court, Tenkasi. Since, the Writ Court has made the interim order granted in W.P(MD)Nos.25331 and 25332 of 2022 absolute, no application has been filed in the suit seeking interim protection.

10. We have heard the learned counsel appearing on either side and perused the materials placed before us.

11. The point for consideration in these writ appeals is that whether the appellant is entitled for the relief of setting aside the portion of the order of the learned Single Judge wherein the interim order granted is made absolute till the disposal of the suit.

12. Narration of facts stated by both parties would go to show that according to the appellant, transfer of Educational Agency was approved in favour of the appellant on 01.11.2021 and subsequently, at the instance of the first respondent/writ petitioner, who is also claiming right over the management of the Institutions, a show-cause notice was issued to the appellant for cancellation of the approval granted to the appellant and the said show-cause notice was challenged in a writ petition and the said writ



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petition was also allowed by the Writ Court and therefore, it is clear from the said fact that the approval of Educational Agency granted in favour of the appellant remained in force and there is no cancellation of the said Agency. Therefore, the appellant seeks for interference of the order making the interim order absolute till the disposal of the suit, by the learned Single Judge in W.P(MD)Nos.9736, 25331 and 25332 of 2022.

13. We are of the view that transfer of Educational Agency in favour of the appellant was challenged by the first respondent after a period of one year and therefore, for a period of one year the Educational Agency was acted upon. Further, the writ petition filed by the appellant challenging the show-cause notice issued to them also came to be allowed. Therefore, the first respondent/writ petitioner now is not entitled for the continuance of the interim order granted in W.P(MD)Nos.25331 and 25332 of 2022 till the disposal of the suit. All these disputed issues should be relegated before the civil Court for ventilating their grievances.

14. Further, according to the parties, there is a dispute regarding continuance of Educational Agency in view of the interim order granted by the Writ Court. We are of the view that all these issues should be agitated only before the civil Court including the prayer for interim arrangement under Section 53-A of the Tamil Nadu Private School Regulation Act, 1973.



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15. At this juncture, both the parties agreed that they will approach the civil Court for getting interim arrangement. In view of the said submission, we issued the following directions:

(i)The first respondent/writ petitioner is permitted to file an application seeking interim protection in O.S.No.657 of 2023 before the Principal Sub-Court, Tenkasi, within a period of two weeks from the date of receipt of a copy of this order, if requires;

(ii)If any such application is filed by the first respondent within the time stipulated by this Court, the trial Court is directed to consider and dispose of the said application as early as possible, within a period of two weeks thereafter, after hearing both the parties, without being influenced by any of the observations made in this judgment or in the order of the Writ Court;

(iii) After orders passed by the civil Court, it is open to the parties concerned to make necessary application before the authority concerned for getting appropriate orders under Section 53-A of the Tamilnadu Recognized Private Schools Regulation Act, 1973; and

(iv) In the meantime, both the parties shall maintain status-quo as on today, for a period four weeks.



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16. In the result, these writ appeals are partly allowed modifying the order of the learned Single Judge, dated 19.09.2023. No Costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.] [R.V., J.]

12.03.2024

Neutral Citation: Yes / No

Index : Yes / No

PM

To:

- 1 The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai 600 009.
- 2 The Commissioner,
Directorate of School Education,
DPI Campus,
Nungambakkam,
Chennai-06.
- 3 The Joint Director (Higher Secondary),
Directorate of School Education,
DPI Campus, Nungambakkam, Chennai- 06.
- 4 The Chief Educational Officer,
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

PM

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