



W.P.No.12288 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

CORAM:

THE HONOURABLE MRS. JUSTICE N.MALA

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M.N.Memorial Nursery and Primary School
Rep.by its Correspondent, N.K.Prasanth
Edaicode, Edaicode and Post,
Kanniyakumari District – 629 152.

... Petitioner

Vs

1. The Government of Tamil Nadu
Rep.by its Secretary,
School Education Department
Fort St.George,
Chennai 600 009.
2. The Joint Director of School Education
(Elementary Education)
DPI Campus, College Road,
Chennai 600 006.
3. The Chief Educational Officer,
Nagercoil, Kanniyakumari District – 629 001.
4. The District Elementary
Educational Officer,
Nagercoil,



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Kanniyakumari District – 629 001.

5. The Assistant Elementary
Educational Officer,
Marthandam and Post,
Kanniyakumari District – 629 175.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus directing the 2nd respondent to pass an order on the application made by the petitioner, seeking closure of the petitioner school namely M.N.Memorial Nursery and Primary School, Edaicode and Post Kanniyakumari District based on the prescribed application form submitted with covering letter with all enclosures on 18.11.2024 forthwith.

For Petitioner : Mr.P.Ebenezer Paul

For Respondent : Mr.L.S.M.Hasan Fazil,AGP

ORDER

This writ petition has been filed for writ of mandamus directing the 2nd respondent to pass orders on the petitioner's application, seeking closure of the petitioner school namely, M.N.Memorial Nursery and Primary School, Edaicode and Post Kanniyakumari District, based on the application submitted along with a covering letter and enclosures on



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18.11.2024.

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2. The petitioner is a linguistic minority school, From the Academic Year 2019-20, there was no admission of students, which would be evident from the disconnection of electricity to the school and cancellation of noon meal scheme by the District Collector, for the petitioner school. Hence the petitioner applied for closure of the school in Form IV in terms of Rule 16(2) of the Tamil Nadu Private School Regulation Rules 2023, with necessary enclosures on 18.11.2024. Since no action was taken by the 2nd respondent the petitioner filed the writ petition for Mandamus.

3. The Hon'ble Supreme Court of India on the nature of a writ of mandamus held as follows in the following cases:

(i) [Saraswathi Industrial Syndicate Limited and others Vs Union of India](#) reported in 1974 (2) SCC 630.

"24. As the appeals fail on merits we need not discuss the technical difficulty which an application for a writ of certiorari would encounter when no quasi-judicial proceedings was before the High



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Court. The powers of the high Court under [Article 226](#) are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless the well recognised rule that no writ or order in the nature of a Mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Even in cases of alleged breaches of mandatory duties the salutary general rule which is subject to certain exceptions applied by us as it is in England when writ of Mandamus is asked for could be stated as we find it set out in Halsbury's Taws of England (3rd edition vol.

"As a general rule the order will not be granted unless the party complained of has known what it was he was required to do so that he had the means of considering whether or not he should comply and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce and that that demand was met by a refusal."

25. In the cases before us there was no such, demand refusal. Thus no ground whatsoever is shown here for the issue of any writ order or direction under [Article 226](#) of the Constitution. These appeals must be and are hereby dismissed but in the circumstances of the case we make no order as to costs.

(ii) In Amrit Lal Berry Vs K.N.Kapur and others reported in 1975 (4)

SCC 714, the Court held as follows:

"25. In the petition of K. N. Kapur & others, we do not even find at assertion that any representation was made against any violation of a petitioner's right. Hence, the rule recognised by this Court is [Kamini Kumar Das Choudhury v. State of West Bengal & Ors.](#) that a demand for justice and its refusal must precede the filing of a petition asking for direction or Writ of Mandamus, would also operate against the petitioners."



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(iii) In the State of Haryana and others Vs Chanan Mal and others reported in 1977 1 SCC 340, it was held as follows:

"43. Any petitioner who applies for a writ or order in the nature of a mandamus should, in compliance with a well known rule of practice, ordinarily, first call upon the authority concerned to discharge its legal obligation and show that it has refused or neglected to carry it out within a reasonable time before applying to a Court for such an order even where the alleged obligation is established."

4. Even in the latest judgments reported in 2022(17) SCC 188 (Union of India and others Vs. Bharat Forge Limited and another) and 2023(1) SCC 386 (Hero Motocorp Limited Vs. Union of India and others), the Hon'ble Supreme Court of India, enunciated the principles of writ of mandamus.

5. From a reading of the aforesaid judgments, it is clear that there should be a demand and refusal for issuance of a writ of mandamus. The purpose behind making a demand is to give an opportunity to the authorities to redress the grievance. The demand is not an empty formality, but it should be made with a view to giving an opportunity to



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the authority to comply with the same. Giving of reasonable opportunity, in my view, is not a mere ritual. The authority should be given practicable time to comply with the demand. In the present case, no representation was submitted and therefore, in my view, in the absence of a representation to the respondents to process the application, the mandamus prayed for cannot be issued. I am therefore inclined to dismiss the writ petition. It is open to the petitioner to submit a representation to the respondents giving reasonable time for compliance, failing which, to apply for writ of mandamus. The writ petition is dismissed with the above observation. No costs.

08.04.2025

dpq

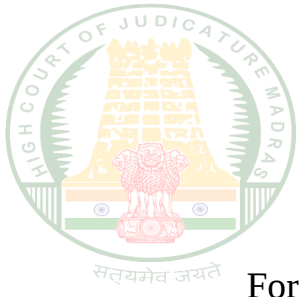
Index: Yes/No

Speaking order / Non speaking order

To

1. The Government of Tamil Nadu
Rep.by its Secretary,
School Education Department

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Fort St.George,
Chennai 600 009.

2. The Joint Director of School Education
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N. MALA, J.

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