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Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.03.2026

Pronounced on : 30.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

Rev. Appln. No.212 of 2023

in WP.No.26369 of 2009

1. State of Tamil Nadu
Rep by its Secretary to Government
School Education Department,
Secretariat, Chennai – 9.

2. Director of School Education
Chennai – 6.

... Applicants

vs

1. M.Umamaheswari

2. Head Master
Corporation Higher Secondary School
118, K.R. Koil Street,
West Mambalam, Chennai – 600 033.

3. Teachers Recruitment Board
rep by its Chairman
Chennai – 6.

... Respondents



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

Prayer: Writ Petition filed under Order XLVII Rule 1 and 2 of C.P.C r/w.114 of CPC to review the order passed in WP.No.26369 of 2009 dated 08.03.2019.

For Applicants : Mr.M.Sureshkumar, AAG

Assisted by Mrs.P.Rajarajeswari, GA

For Respondents : Mr.V.Sivalingam for C.S.Associates for R1

Mr.S.Gopinathan for R2

ORDER

This review application is filed by the respondents No.1 and 2 in the writ petition seeking review of the order dated 08.03.2019 passed in W.P.No.26369 of 2009.

2. Heard the learned Additional Advocate General for the review applicants/respondents No.1 and 2 and the learned counsel for the respondents and perused the materials available on record.

3. On behalf of the review applicants, it is contended that this Court while allowing the writ petition filed by the first respondent herein as writ petitioner had wrongly concluded that the first respondent/writ petitioner was not given the benefit of G.O.Ms.No.35, School Education Department dated



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

09.02.2007 and consequently, directed the applicants/respondents No.1 and 2 to regularise the service of the first respondent/writ petitioner from the date of appointment along with consequential benefits by applying G.O.Ms.No.35, within a period of eight(8) weeks from the date of receipt of a copy of this order.

4. On behalf of the applicants/respondents No.1 and 2, it is contended that G.O.Ms.No.35 is applicable only to Government Higher Secondary Schools and aided Schools and not to Schools which are run by the Municipal Corporation; and that the second respondent herein is governed by the Rules and the regulations of Greater Chennai Corporation.half of the applican
ts/respondents No.1 and 2

5. To buttress the aforesaid contention, reliance has been placed on the decision of the Hon'ble Apex Court in the case of *Malleeswari vs.K.Suguna and anothers* reported in 2025 SCC Online SC 1927.

6. Per contra, learned counsel appearing for the first respondent/writ petitioner, it is contended that though the aforesaid writ petition was allowed on 08.03.2019, the applicants/respondents No.1 and 2 without implementing the



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

aforesaid order chose to file writ appeal vide W.A.No.1927 of 2021 mainly contending that the Government counsel who had appeared in the matter before the learned Single Judge made a concession that the issue involved in the writ petition being similar to the issue considered by this Court in W.P.No.18452 of 2012 affirmed in W.A.No.2445 of 2018, the said order be made applicable to the present writ petition without noticing that the aforesaid G.O is applicable only to Government Schools and Government aided Schools; and that the second respondent herein neither being a Government School nor Government aided School.

7. On behalf of the first respondent/writ petitioner, it is also contended that the applicants/respondents No.1 and 2 never raised such plea before the learned single judge when the writ petition was taken up for hearing the second respondent/School herein being a School under the control of Greater Chennai Corporation, cannot be permitted to raise the said plea at appeal stage.

8. On behalf of the first respondent/writ petitioner, it is contended that as the Hon'ble Division Bench was not inclined to go into the submission of the



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

appellants with regard to the concession made before the learned Single Judge in Writ Petition, the Division Bench while dismissing the Writ Appeal only granted liberty to the applicants / appellants to prefer a review application, if so advised.

9. On behalf of the first respondent, it is contended that mere granting of liberty by the Division Bench would not automatically entail the applicants/respondents No.1 and 2 to file the present review application seeking for review the order dated 08.03.2019 on the grounds as set out in the application.

10. On behalf of the first respondent/writ petitioner, it is also contended that the applicants/respondents No.1 and 2 by the present application are seeking to re-argue the matter on merits which is not permitted in law.

11. I have taken note of the respective contentions urged by the learned counsel on either side.

12. Before considering as to whether the applicants/respondents 1 and 2 can maintain the present review application only on the ground by virtue of the



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

liberty granted by the Division Bench, it is required to be seen as to whether the present application as filed falls within the scope of review.

13. The Hon'ble Apex Court in the case of ***Sanjay Kumar Agarwal vs. State Tax Officer and another*** reported in (2024) 2 SCC 362 referring to the decision of the Constitution Bench in ***Beghar Foundation vs. K.S.Puttaswamy*** reported in (2021) 3 SCC 1 laid down the scope of review as under:

“16. The gist of the afore-stated decisions is that: -

16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

16.4. In exercise of the jurisdiction under [Order 47 Rule 1 CPC](#), it is not permissible for an erroneous decision to be “reheard and corrected.”

16.5. A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise.”



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Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

16.6. Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

16.8. Even the change in law or subsequent decision/ judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review.”

14. Though on behalf of the applicants/respondents No.1 and 2, it is contended that G.O.Ms.No.35 is applicable only in respect of Government Schools and Government aided Schools and not Schools under the control of Greater Chennai Corporation and thus, the order dated 08.03.2019 passed in writ petition needs to be reviewed, it is to be noted that the error which can be corrected in a review application should be an error apparent on the face of the record and not an error which is to be unearthed by process of examination or reasoning. The Honb'e Apex Court in the case of ***Sanjay Kumar Agarwal (supra)*** had held that if an error is required to be detected by the process of reason, such an error can hardly be said to be an error on the face of the record justifying exercise of power of review.



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

WEB COPY

15. The Hon'ble Apex Court in the case of *Sanjay Kumar Agarwal* (*Supra*) further held that exercise of jurisdiction under Order XLVII Rule 1 of CPC is not permissible for an erroneous decision to be reheard and corrected.

16. The dicta as laid down by the Hon'ble Apex Court dealing with the scope of review are clearly attracted to the facts of the present case. The applicant/respondents No.1 and 2 by the present application and submission as noted above are seeking for rehearing of the matter and correct the order dated 08.03.2019, which is clearly not permitted.

17. If only the applicants/respondents No.1 and 2 are of the view that G.O.Ms.No.35 is not applicable to Schools under the control of Greater Chennai Corporation, the applicants/respondents No.1 and 2 ought to have got the aforesaid aspect adjudicated in the writ appeal filed by them, rather than harping upon the plea of Government Advocate Conceding before the learned single Judge that the issue involved in the writ petition being covered by decisions in earlier writ



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

WEB COPY

petitions. Instead, the applicants/respondents No.1 and 2 sought liberty to file a review application before the learned Single Judge.

18. Further, on this Court querying with the learned Additional Advocate General appearing on behalf of the applicants/respondents No.1 and 2 as to whether the pleas now being urged before this Court as to G.O.Ms.No.35 not being applicable to Schools under the control of Greater Chennai Corporation and also the Greater Chennai Corporation was not made as a party, though is a necessary party to the writ petition, are taken in the counter affidavit filed by them in the writ petition and to produce a copy of the same for perusal of the Court, the learned Additional Advocate General appearing for the applicants/respondents 1 and 2 however, expressed his inability to produce the counter affidavit filed on behalf of the respondents No.1 and 2 in the writ petition.

19. The inability expressed by the learned Additional Advocate General only goes to show that the applicants/respondents No.1 and 2 have realised omission on their part only after suffering an order in the writ petition on



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

08.03.2019 and at the time of filing of the writ appeal in the year 2021 and not before.

20. The fact of the applicants/respondents No.1 and 2 not being able to show to this Court of they having taken the said plea and the Court while passing the order having ignored the said fact pleaded, would only go to show that it is not an error apparent on the face of the record for the applicants/respondents No.1 and 2 now to seek review of the order dated 08.03.2009.

21. Even in the decision on which, reliance is placed by the learned Additional Advocate General, the Hon'ble Supreme Court held that “ an error which has to be established by a long-drawn process of reasoning on points where they may conceivably give two opinions can hardly be said to be an error apparent on the face of record. The Hon'ble Apex Court in the case of *Malleeswari (supra)* while summing up the power and scope of review jurisdiction had held as under:

“19. The impugned order has not adverted to an error apparent on the face of the record, but has taken up an error on reappreciation of the case and counter case of the parties. The review order records a few findings



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

extending far beyond the actual working out of prayers in a suit for partition. The order impugned has exceeded the jurisdiction of review by a court.”

As noted herein above, the applicants/respondents by the present application are seeking for re-appreciation of the case which is beyond the scope of review.

22. Though, it is contended by the learned Additional Advocate General that the GO.Ms.No.35, School Education Department dated 09.02.2007 applies only to the Government School and Government aided school and thus, the school in which the respondents/writ petitioner was working, being a school under the control of Greater Chennai Corporation, as such the benefit cannot be extended, it is to be noted in the State of Tamil Nadu there are two categories of school (i) Government schools/Government aided Private schools and ii) Private Aided Schools.

23. Insofar schools which are to be considered as private schools, reference may be made to the definition of a ‘private school’ as defined under Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. Section 2(7) of Regulation 1973 is extracted hereunder :-



WEB COPY



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

“2 (7)”*Private School*” means a pre-primary, primary, middle or high school or any other institution imparting education or training, established and administered or maintained by any person or body of persons, and recognised by the competent authority under this Act but does not include a school or an institution”

The aforesaid Act was repealed and in its place Tamil Nadu Private School (Regulation) Act 2018 has been enacted. Even in the 2018 Act, the private school has been defined as under :

“2(m) "private school" means a Play School, Nursery and Primary, Primary, Middle, High and Higher Secondary School or Teacher Training Institute imparting education and training, whether receiving grant from the Government or not, established and administered or maintained by an educational agency and recognized by the competent authority under this Act, but does not include a school or an institution,-

(i) established and administered or maintained by the Central Government or the State Government or any local



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

WEB COPY

authority; or

(ii) imparting religious instruction alone, but not any

other instruction;

24. A reading of the definition of private schools under regulation 1973 or 2018 would clearly show that the school run by Greater Chennai Corporation cannot be considered as private school. If that be so, the natural corollary is that such Schools are to be considered as Government school or Government aided school.

25. Further, if the schools run by the Greater Chennai Corporation is not considered as Government School or Government aided school, then the respondent would have to apply the provisions of Regulation Act 1973 or Regulation Act 2018 as applicable to private schools as defined herein above. It is not the case of applicant/respondents No.1 and 2 that in respect of Schools ruling Greater Chennai Corporation or local body like the school in which the petitioner was working, the authorities having applied the provisions of Act, 2018.



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

WEB COPY

26. In this context, this Court may also beneficially refer to the Full Bench Decision of the Bombay High Court in the case of ***Komal Rugwani vs. State of Maharashtra and others – MANU/MH/0717/2011***, wherein the Bombay High Court had observed as under :-

“21. Therefore, when one considers the question whether the provisions of the Act apply to a particular school, first inquiry is to be made whether that school is a private school within the meaning of the Act and to find out whether the school in question is a private school or not, one has to refer to the definition of the term "private school" and if on consideration of that provision one finds that it is a school established and administered by the management which is neither Government nor local authority, then the provisions of the Act will be applicable. In other words, in order that the school answers to the definition of the term "private school", firstly it must be a



WEB COPY



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

recognized school and secondly it must be established or administered by management other than the Government or local authority.”

27. Thus, this Court is of the view that claim of the applicants/respondents 1 and 2 that GO.Ms.No.35 does not apply to the schools run by Greater Chennai Corporation, does not appeal to this Court, for this Court to hold that there is an error manifest on the record for the applicants /respondents to seek review of the judgment.

28. Therefore, this Court is of the view that the order review of which is now sought by the present application does not fall under any of the categories enumerated by the Hon'ble Supreme Court in ***Sanjay Kumar Agarwal*** (*supra*).

29. Accordingly, the review application, as filed, is devoid of merit and is dismissed. No costs.l

30.03.2026

msv

15/17



Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

To

1.Head Master

Corporation Higher Secondary School

118, K.R. Koil Street,

West Mambalam, Chennai – 600 033.

2. The Chairman

Teachers Recruitment Board

Chennai – 6.



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Rev. Appln. No.212 of 2023 in WP.No.26369 of 2009

T. VINOD KUMAR, J.

msv

order made in
Rev. Appln. No.212 of 2023
in WP.No.26369 of 2009

30.03.2026