

(2008) 12 MAD CK 0237

In the Madras High Court

Case No : Writ Appeal No. 1171 of 2008

Christ Matric Higher Secondary School

APPELLANT

Vs

The District Collector, Appellate Authority, The Tahsildar, The
Revenue Inspector and The Correspondent, Adhiaman
Matriculation School

RESPONDENT

Date of Decision : 17-12-2008

Acts Referred:

Citation : (2008) 12 MAD CK 0237

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.;V. Dhanapalan, J

Bench : Division Bench

**Advocate : A.R. Nixon, for the Appellant; Raja Kalifulla, Govt. Pleader for
Respondents 1 to 3, for the Respondent**

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, Actg. C.J.

1. The appellant, Christ Matric Higher Secondary School (hereinafter referred to as the "appellant-School"), made a grievance that the fourth respondent, Adhiaman Matriculation School (hereinafter referred to as the "respondent-School"), has been established within a radius of 1 kilometer of the appellant-School. According to the appellant-School, it is against the State Government Guidelines dated 9.5.1997 which prohibits such starting of a regular school within one kilometer radius of the existing school without obtaining a No Objection Certificate from the competent authority. The writ petition having been dismissed by the learned single Judge on 30.4.2008, the present writ appeal has been preferred.

2. We have heard the learned Counsel appearing on behalf of the appellant and the learned Government Pleader appearing for respondents 1 to 3.

3. It will be evident from the order impugned in the writ appeal that the learned single Judge relied on a decision of this Court in Aided Elementary School, rep.

by M. Rajagopal, Mullichettipatti, Tinnapatti Post v. Government of Tamil Nadu, rep. by its Secretary, Education Department, Chennai and Ors. reported in 1997 W.L.R. 862, wherein with regard to a similar grievance, the Court held that such a writ petition is not maintainable at the instance of a rival school. In the present case, the appellant-School has not enclosed any Government Order or guideline, including the Guidelines dated 9.5.1997, of which a reference is given.

4. Before us, reliance is placed on the judgment of a Division Bench of this Court dated 23.6.1997 passed in Writ Appeal No. 687 of 1997 (Sri Rajendra Matriculation School v. State of Tamil Nadu and Ors.), wherein the Court noticed the order issued by the State Government as late as on 9.5.1997 prohibiting such starting of rival school within one kilometer radius without obtaining a No Objection Certificate. From the said judgment, it appears that no such school can be opened within one kilometer radius of an existing school, but there is no such bar to open such school within one kilometer radius with the permission of the competent authority on grant of a No Objection Certificate.

5. In these facts and circumstances, we are not inclined to interfere with the order passed by the learned single Judge dated 30.4.2008. In the absence of any merit, the writ appeal is dismissed. But there shall be no order as to costs. Consequently, M.P. No. 1 of 2008 is closed.