

(1981) 07 MAD CK 0034
In the Madras High Court
Case No : C.R.P. No. 2602 of 1979

Dharul Ulam Madarsha

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 24-07-1981

Acts Referred:

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 2

Citation : AIR 1982 Mad 128 : (1982) ILR (Mad) 446 : (1981) 94 LW 807

Hon'ble Judges : Venugopal, J

Bench : Single Bench

Advocate : M.R. Krishnan, for the Appellant; P.D. Dinakaran, for Govt. Pleader, for the Respondent

Judgement

1. The civil revision petitioner is a Madarsha represented by its trustee. It is running a school, where 17 students are studying Arabic language. The students are provided with free food, clothing and shelter. The petitioner's case is that the object of running the Madarsha for which the Trust was created was to impart instructions in Islamic religion and to teach Koran to the Muslim boys and girls in Arabic language and the Trust is, therefore, a Public Trust of a religious nature entitled to claim exemption under S. 2 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961 (Act 58 Of 1961). The Authorised officer came to the conclusion that the Madarsha is an institution similar to Vedapadasala, and there is no mention about any religious service being rendered and it should be treated as a public Trust of charitable nature and is entitled to retain only 5 standard acres and the remaining extent was declared as surplus I " and. on appeal, the Land Tribunal held that the Madarsha is only imparting general education to the Muslim boys and girls and the Trust is not giving any religious instructions and hence it is not a Public Trust of a religious nature and thus confirmed the findings of the Authorised Officer. Hence the Present civil revision petition before this court.

2. The learned counsel for the civil revision Petitioner relying on a decision of a

Division Bench of this court reported in Vedapatasala Trust, Sooramangalam and Others Vs. The State of Tamil Nadu and Others, , contended that imparting of instruction in Vedas and Agamas has been construed by this court as one of religious nature and a trust, which is of a Public nature and which provides for the imparting of instructions in Vedas and Agamas is a religious trust of a public nature and on the same analogy the trust which runs the Madarsha for imparting religious instruction to Muslim boys and girls studying in the Madarsha should be construed as a religious trust of a public nature.

3. In the decision reported in A.K. Vavallevvai Maricair Dharmam Vs. The State of Tamil Nadu, , religious instruction and lessons on Islamic religion were given in the Madarsha for the benefit of the Muslim boys and girls. The question arose whether the running of such Madarsha can be construed as a religious object or merely as a charitable object. This court held -

"If it is merely a general education that is imparted in the Madarsha then it will be charitable but as the main object of the Madarsha is to give religious instruction to Muslim boys and girls, it can only be treated as pertaining to religion."

4. The Court further held----

"The object of running a Madarsha for which -the trust was created is to impart instruction in Islamic religion and to teach Koran to the Muslim boys and girls. Therefore the entire object of the trust was to Live religious instruction to Muslim boys and girls, that is to spread religious tenets, and therefore the trust is only of religious nature".

5. In the decision reported in Vedapatasala Trust, Sooramangalam v. State of Tamil Nadu, 1981 1 Mad 225, the trust created in Vedas and Agamas is a trust of a religious nature. The court held

"Whenever a trust which is of a public nature provides for the imparting of instruction in Vedas and Agamas, certainly that will be religious trust of a public nature and the imparting of instruction in Vedas and Agamas cannot be anything other than of religious nature. The trusts in all these cases will constitute religious trusts of a public nature, because the trusts are running VedaPatshalas for imparting instruction in Vedas and Agamas".

6. In the instant case, the object of creating the trust is to run a Madarsha for imparting education in Arabic, to students studying in the Madarsha, and to give them free food, clothing and shelter. The reference to "(Vernacular)" in the Trust Deed dated 7-3-1970, and the reference that the imparting of instruction and teaching should be in Arabic language is an indication to show that the purpose for which the properties were endowed to the Madarsha, is to impart religious instruction in Arabic to the students studying in the Madarsha, The object is not to promote general education, but to promote spiritual education and knowledge through the medium of Arabic language. The purpose sought to be achieved is

not secular but temporal in character for the propagation and promotion of spiritual knowledge through the medium of Arabic language. As the emphasis is to impart knowledge and instruction "in Arabic language and teaching of Arabic language in a remote village (it) cannot be for the purpose of imparting general and secular education but only to impart and teach Islamic tenets from the original text which is in Arabic language and it is obvious that the Madarsha is not intended to give general secular education, but to give religious instruction in Arabic language to Muslim boys and girls studying in the Madarsha. It is no doubt true that there is no specific reference to teaching of Koran in Arabic language in the deed dated 7-3-1970. But the reference to "(Vernacular)", in the deed is a clear indication to show what was really intended was to impart religious instruction to the students in Arabic language. As the Trust in question is a religious trust of a public nature, it is entitled to exemption under S. 2 of Act 58 of 1961.

7. In the result, the civil revision petition is allowed with costs, and the petitioner is entitled to the exemption claimed.

8. Petition allowed.