

(2012) 11 MAD CK 0194

In the Madras High Court

Case No : Writ Petition No. 12991 of 2012 and M.P. No's. 1 and 2 of 2012

M. Chandran, B.T. Assistant and W.T. Masilamani Mudaliar Hr. APPELLANT
Sec. School, Walajabad, Kancheepuram

Vs

The Director of School Education, College Road, Chennai and RESPONDENT
Others

Date of Decision : 15-11-2012

Acts Referred:

Citation : (2013) 1 MLJ 143

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : S. Giridharan, for the Appellant; G. Thilakavathi for R4 and R5, M/s. P.S. Sivashanmuga Sundaram, A.G.P. for R1 to R3, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru

1. The petitioner is a B.T. Assistant working in the 5th respondent school. He has challenged the notice dated 21.4.2012 issued by the 5th respondent asking him to appear for enquiry on 28.4.2012 in the office room of the school Secretary in respect of the complaint given by the previous headmaster of the school. The petitioner challenged the said enquiry notice in this writ petition. When the matter came up on 4.5.2012, this Court, while ordering notice of motion granted interim stay. It was contended by the petitioner that prima facie the notice is invalid, since there is no valid school committee for initiating action u/s 18(c) of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, and since the dispute among the trustees is pending before the Division Bench, and in the absence of the School Management Trust, the Government is likely to appoint special officer and therefore, no enquiry can be held against the petitioner.

2. The said interim stay was subsequently extended from time to time. Aggrieved by the grant of interim stay, the 5th respondent has filed a vacate stay petition in

M.P. No. 2 of 2012 together with a supporting counter affidavit dated 22.8.2012.

3. Heard the arguments of Mr. Giridharan-the learned counsel for the petitioner and Ms. G. Thilagavathi the learned counsel appearing for the 5th respondent and Mr. Sivashanmugham, the learned Special Government Pleader, who takes notice for R1 to R3.

4. The sheet anchor of the petitioner's case is that there was a dispute among the trustees and it was resulted in the petition being filed before this Court and as against the order passed in the Review Petition No. 95 of 2011, the 4th respondent filed the writ appeal being W.A. No. 2392 of 2012. The said writ appeal was disposed of on 9.2.2012 directing the Director of School Education to act upon the petitioner's memorandum dated 3.6.2011 and to refer the dispute among the trustees for adjudication by a civil Court in terms of Section 53-A of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. Aggrieved by the order of the Division Bench, it is stated that the appellants have gone before the Supreme Court by filing SLP and it is pending.

5. In any event, the dispute among the trustees is unnecessary to be considered in this case, as the petitioner is in no way concerned with the constitution of the trust or the actual dispute between the parties. It is suffice to state that the State Government, represented through the Director of School Education, is yet to refer the dispute u/s 53-A of the Act and it may even take some more time, as the matter is now seized of by the Supreme Court and in the SLP notice has been ordered to the State Government.

6. Ms. G. Thilagavathy, the learned counsel for the 4th and 5th respondents placed reliance upon the approval granted by the District Educational Officer, Kanchipuram, vide order dated 4.7.2011, approving the constitution of the School Committee for a period of three years. However, the learned counsel for the petitioner states that the said order was set aside by the learned Judge of this Court in W.P. No. 17527 of 2011 vide order dated 19.3.2012. As against the same, the 4th respondent filed an appeal in W.A. No. 794 of 2012 and the Division Bench, vide order dated 17.4.2012, granted interim stay. Therefore for practical reasons, the order, granting approval for the School Committee, dated 4.7.2012, is still in operation. In any event as noted above, the petitioner being only a teacher is not concerned with the constitution or reconstitution of the trust and that dispute will be taken care of by the appropriate proceedings initiated by the authorities. Till such time there cannot be vacuum and therefore prima facie the order passed by the District Educational Officer, Kanchipuram holds good as on date. Hence, the contention raised by the petitioner that the notice is invalid cannot be sustained.

7. The second contention raised was that the school committee had not framed charges. There is no such ground raised in the affidavit filed in support of the writ petition. However, in the course of the argument, the learned counsel for the petitioner placed reliance upon Section 18(c) of the Tamil Nadu Recognised

Private Schools (Regulations) Act, wherein, the appropriate Rules have been framed. The Rule 15(1) of the Act prescribes form-VII-A as a statutory between the School Committee and the teacher or other person in respect of private school teachers and in Form-VII-A paragraph No. 7 prescribes the method in which an enquiry can be conducted. It is also stated that at every stage of the enquiry proceedings, the school committee has to be involved, and therefore, it may not be proper for the respondents to proceed on the basis of the complaint given by the Headmaster, without framing a specific charge by the school committee. With the above observation, the writ petition is dismissed. However there is no order as to costs. Consequently, connected miscellaneous petitions are dismissed.