
(1994) 01 MAD CK 0001
In the Madras High Court

M. Gnana Vanitha Mary, Correspondent, Anni Mary Teacher Training Institute APPELLANT

Vs

The Joint Director of School Education and Others RESPONDENT

Date of Decision : 31-01-1994

Acts Referred:

Constitution of India, 1950 — Article 14, 15(4), 30(1), 46

Citation : (1994) 2 MLJ 268

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Judgement

Srinivasan, J.—The first of the writ petitions is filed by the correspondent of Annai Mary Teacher Training Institute (for Men and Women)

for issue of a writ of declaration declaring that G.O.Ms. No. 645, Education, dated 20.7.1992 providing for Teacher Training Courses in

Government-aided Institutions which do not conform to the standards prescribed in G.O.Ms. Nos. 535 and 536, Education, dated 17.5.1989 as

illegal, improper and violative of Article 14 of the Constitution of India. In the second writ petition, which is filed by the Correspondent of Annai

Velankanni Teachers Training Institute, the prayer is to issue a mandamus forbearing the respondents therein from in any manner conducting or

running the Diploma Course in Teachers Education or admitting the students to the first year Diploma Course or to the second year Teacher

Training Course in the academic year 1993-94 and subsequent years so long as the institutions as detailed in Annexure-I do not satisfy or fulfil the

conditions stipulated in G.O.Ms. No. 645, Education, dated 20.7.1992 and G.O.Ms. No. 535, dated 17.5.1989. In the third writ petition filed by

Little Flower Girls" Teachers Training School, the prayer is for issue of writ of

certiorarified mandamus to call for the records relating to G.O.Ms.

No. 645, Education, dated 20.7.1992, quash the same and direct the respondents to cancel all the permission/recognition granted to Government

Girls Higher Secondary Schools pursuant to the said G.O. In the fourth writ petition filed by the petitioner in W.P. No. 14725 of 1993, the prayer

is for issue of a writ of declaration to declare G.O.Ms. No. 645, Education Department, dated 20.7.1992 and the consequent proceedings of the

Director of School Education in R.C. No. 51347/W26/WIII/92, dated 7.8.1992 as illegal and violative of Articles 14 and 30(1) of the

Constitution of India, so long as the institutions are not conforming to the present syllabus standard prescribed in G.O.Ms. Nos. 535 and 536,

Education, dated 17.5.1989. In the fifth writ petition, the prayer by Asir Teacher Training Institute is the same as that in the second writ petition

viz., W.P. No. 14822 of 1993.

2. The main question in all these writ petitions is whether G.O.Ms. No. 645, dated 20.7.1992 is valid and the consequential proceedings issued by

the Director of School Education is valid. The substance of the contention of the petitioners in all these cases is that the Government having

prescribed certain rules in G.O.Ms. Nos. 535 and 536 to be followed by Private Teacher Training Institutes, is not entitled to open Diploma

Courses in Government Girls' Higher Secondary Schools which do not admittedly fulfil the requirements of the aforesaid two G.Os. It is the

contention that the Government cannot prescribe two standards one for private institutions and another for Government institutions and

Government-aided institutions. It is also argued that the Higher Secondary Schools selected by the Government for running Diploma course in

Teacher Training pursuant to G.O.Ms. No. 645, do not fulfil the conditions set out in the said G.O. and they should be prevented from conducting

the courses.

3. In the first instance, the Government filed a counter-affidavit on 16.9.1993 in W.P. No. 14725 of 1993. It adopted the averments contained in

paragraphs 12 and 13 of the counter-affidavit filed in W.P. No. 13036 of 1993. The said paragraphs contain the following averments:

12. It is submitted that the averment of the petitioner in paragraph 12 is untenable. The petitioner wants to confuse the issue. The Government of

Tamil Nadu by G.O.Ms. No. 250, Education, dated 18.2.1989 took a policy decision to appoint only women teachers for handling classes in the first standard and issued directions to that effect to the Department. Again by the orders issued in G.O.Ms. No. 667, Education, dated 17.5.1990, the Government of Tamil Nadu issued directions to the effect that only women teachers should handle classes in the Standards I to III. Thereafter the Government of Tamil Nadu issued G.O.Ms. No. 789, Education, dated 31.7.1991. The said G.O. states that the Government have taken a decision to appoint only woman teacher for handling classes in IV and V standards in Primary/Middle schools in the State in all future vacancies from the academic year 1991-92. Foreseeing all the developments, Government in the first instance introduced Teachers Training for women under vocational subjects during the year 1985-86 in 557 Higher Secondary Schools in the State. As a large number of trained secondary Grade Teachers were waiting for appointment the Government dispensed with this training from the year 1989-90 in Higher Secondary schools. In view of the policy decision taken by the Government that only women candidates have to be appointed as Secondary Grade Teachers in all primary and middle schools upto Standard V, the scope of Employment opportunities for women increased. In order to train more number of women candidates, the Government thought of re-introducing the Diploma in Teacher Education Course in 100 Government Girls Higher Secondary Schools only from the academic year 1992-93 on certain conditions and issued orders in the G.O.Ms. No. 645, Education, dated 20.7.1992. The following conditions have been stipulated in the G.O. referred to above:

1. The schools selected for this purpose should purely be a Girls Higher Secondary School.
2. The school should have 10 acres of land.
3. The school should have sufficient building facilities.
4. The school should have sufficient number of qualified teachers.
5. 30 Girl students alone should be admitted. 6. There should be no extra expenditure to Government.

It is submitted that in the years 1985-89, 557 Higher Secondary Schools were permitted to have one section of Secondary Grade Teacher

Training Course as a vocation stream. Under this scheme, the Higher Secondary certificate was treated as equivalent to Diploma in Teacher

Education. This is replaced by a new scheme "therein the same syllabus and examination for Diploma in Teacher Education were conducted.

13. It is submitted that these schools are not purely Teacher Training Institutions since they are only Higher Secondary Schools having a separate

training section. Hence the question of complying with the recognition rules does not arise as contended by the petitioner. These 100 Government

Girls Higher Secondary Schools functioning for several decades have to be treated as Government Higher Secondary Schools only and they can

not be termed as a training institute. No separate recognition "has been granted by the authorities concerned for training section. All these schools

were in existence for several decades opened as per the provisions contained in the Tamil Nadu Educational Rules. Hence the question of

complying with the provisions contained in G.O.Ms. Nos. 535 and 536, Education, dated 17.5.1989 by these Government Schools does not arise

at all and therefore the plea of the petitioner that the students studying in the schools should not be allowed to write the examinations is devoid of

substance and merit.

The counter-affidavit proceeded to say that the Government permitted the opening of the Teacher Training Courses for Girls only in Government

Girls Higher Secondary Schools in the year 1992-93 only. It is stated that in the year 1993-94, the Government having passed G.O.Ms. No. 685,

Education, dated 16.7.1993, took a decision to discontinue the operation of G.O.Ms. No. 645, dated 20.7.1992 and communicated the same to

the Director of School Education in its letter No. 48145/HS 3/93, Education, dated 26.7.1993. It is stated that in view of the same, the courses

are not continued for the year 1993-94 and the G.O. impugned in this petition is not given effect. It is stated that the writ petition has become

infructuous. Later, the Government filed one counter-affidavit in W.P. Nos. 14822 and 14862 of 1993. After setting out the contents of G.O.Ms.

645, it is stated that the scheme of syllabus and examination is one and the same in District Institutes of Education and training, Government

Training Institutes and in the Government Girls Higher Secondary Schools. It is added that the 100 Girls Higher Secondary Schools are not

Teacher Training Institutes; but they are recognised Higher Secondary Schools for a long period of time wherein a separate section for Teacher

training has been permitted and, therefore, the question of complying with the conditions in G.O.Ms. Nos. 535 and 536, dated 17.5.1989 does

not arise. It is further averred that the said 100 schools functioning for several decades have to be treated as Government Higher Secondary

Schools only and they cannot be termed as Teacher Training Institutes and separate recognition has not been granted by the authorities concerned

for training section. Thus, there is a clear admission in the said counter-affidavit that the Girls Higher Secondary Schools selected for

implementation of G.O.Ms. No. 645 do not have a recognition for conducting the training section. It is further stated in the said affidavit that no

fresh admission has been made in the year 1993-94 as per G.O.Ms. No. 645 and the students admitted in the year 1992-93 are only continuing

their second year course in 1993-94. It is also averred that due to the opening of the short course as per G.O.Ms. No. 685, Education, dated

16.7.1993 and also taking into consideration the glut in the employment market of Diploma in Teacher Education Holders as a result of the

proliferation of Teacher Training Institutes, the Government issued orders not to continue with the scheme of teacher training as per the orders

issued in G.O.Ms. No. 645, Education, dated 20.7.1992. In paragraph 7 of the said counter-affidavit dealing with the averments in paragraphs 19

to 23 of the petitioner's affidavit, it is stated that the petitioner has no locus standi to file the writ petition as a public interest litigation, as his

institution is one of the institutions affected by the orders of this Court in the earlier writ petitions. In paragraph 8, it is stated that the rules in

G.O.Ms. Nos. 535 and 536 will not apply to the Government Institutions, as they are intended for private Teacher Training Institutes only. It is

said:

The Government run Teacher Training Institutes in each district have been upgraded into District Institutes of Education and Training in accordance

with the guidelines and standards prescribed by the Government of India. When these rules themselves apply only to recognition of private

institutes no inference can be drawn that these rules will apply to Government Institutions. The term, "recognition" itself can be spoken of only in

regard to private institutes.

[Italics ours]

4. In the counter-affidavit filed in W.P. No. 19166 of 1993, it is reiterated that no student has been admitted in the course in the year 1993-94 and

only those who joined the course in 1992-93 are continuing their studies in the second year. In paragraph 15 of the said counter-affidavit,

reference is made to Articles 15(4) and 46 of the Constitution of India and it is stated that, ""That Government issued orders in G.O. No. 250,

Education, dated 26.2.1984, G.O. No. 667, Education, dated 17.5.1990 and G.O. No. 788, Education, dated 31.7.1991 requiring the women

teachers to be appointed upto 5th standard. These orders were challenged before this Hon"ble Court and were upheld in the decision reported in

J.R. Clement Regis and Ors. v. State of Tamil Nadu and others, 1993 Writ L.R. 94.

5. We have already extracted a portion in the counter-affidavit filed in W.P. Nos. 14822 and 14862 of 1993 regarding recognition of Government

institutions. The stand taken that the term "recognition" itself can be spoken of only in regard to private institutes and there is no need for

recognition of Government institutions, is wholly unsustainable. Along with this batch, we heard W.P. Nos. 18406 and 18407 of 1993. The

petitioner therein appeared as a party in person and argued before us. He brought to our notice the existence of G.O.Ms. No. 587, Education

Department, dated 22.3.1978. The said G.O. prescribed rules for recognition of Higher Secondary Schools. Paragraph 6 of the G.O. enjoins

institutions administered by Departments of Government and civil bodies to apply to the Director of Recognition in the form prescribed and fulfil all

the conditions excepting, those relating to creation of endowment or cash security and agreement with the teachers. Paragraph 8 of the said G.O.

prescribes the requirements to be fulfilled for grant of recognition. That G.O. has not been superseded. Admittedly, it is still in force. It has not

been amended or altered. In spite of that, the Deputy Secretary to Government, Education Department, has chosen to file the aforesaid counter-

affidavit asserting that no recognition is necessary for Government Schools. This Court has very often pointed out in different cases that

Government Officials do not take care to state the facts correctly in the affidavits are filed by them in this Court. We have had occasions to

observe that affidavits are prepared in a slipshod and careless manner and they disclosed non-application of the mind by the concerned deponent

as well as the person who prepare the same. We have had occasions to pass strictures on such officials. This is yet again a glaring instance where a

high official of the State Government has filed a counter-affidavit not only suppressing the existence of rules for recognition of Government Higher

Secondary Schools, but also raising a frivolous contention in a callous manner that the term "recognition" would apply only to private institutes. We

intend taking appropriate action against the deponent of the said affidavit and the proceeding therefore will be issued separately.

6. The rule of law is supreme and the Government is always bound by it. The rules framed by the Government in G.O.Ms. No. 587, Education

dated 22.3.1978 cannot be ignored and the Government cannot act as if any new course can be opened in a Government Higher Secondary

School without recognition. G.O.Ms. No. 587 prescribes the entire procedure for the schools to apply for recognition and the conditions for the

grant of the same. Admittedly, none of the 100 Government Girls Higher Secondary Schools applied for opening Teacher Training Course; nor has

any of them been granted recognition to conduct the said course. Hence, the impugned G.O.Ms. No. 645, dated 20.7.1992 is illegal and void on

that short ground itself. In fact, it was mala fide on the part of the Government to pass the impugned G.O.Ms. No. 645 and introduce the diploma

course in its Higher Secondary Schools after having passed G.O.Ms. Nos. 535 and 536 dated 17.5.1989 prescribing high standards for private

Teacher Training Institutes and during the pendency of the proceedings in this Court challenging the validity of the said G.Os.

7. In all the writ petitions it is stated categorically by the petitioners that the Girls Higher Secondary Schools in which the Teacher Training Course

has been introduced pursuant to the impugned G.O. do not satisfy the requirements of the said G.O. itself. In paragraph 21 of the affidavit filed in

support of W.P. No. 14822 of 1993, the following averment is made:

The petitioner states in Annexure II he has given details of some of the schools which do not possess or satisfy the conditions as set out in the G.O.

No. 645, dated 20.7.1992 and G.O.Ms. No. 535, Education, dated 17.5.1989.

In Annexure II a list of institutions is given. It is stated that none of the

institutions has ten acres of land, adequate class rooms or fully qualified teachers. An additional affidavit is filed in the said petition on 11th August, 1993. In the Annexure thereto, a list of 12 institutions is set out. The particulars of the facilities which are not available in those institutions are mentioned in column 3. In the counter-affidavit filed in W.P. No. 14822 of 1993, in reply to paragraph 21 of the petitioner's affidavit, the following statement is made in paragraph 7 thereof:

Regarding paras. 19 to 23 of the affidavit under reply it is submitted that the petitioner has no locus standi to file the above writ petition as a Public

Interest Litigation as his institution is one of the institutions affected by the orders of the Division Bench dated 22.3.1993 upholding the G.O.Ms.

No. 536, Education, dated 17.5.1989 and by the orders of the Division Bench dated 27.4.1993.

Thus, the crucial averments made in the petitioner's affidavit have not been denied factually in the counter-affidavit. Apart from that, there is no

statement in any of the counter-affidavits filed by the respondents that the Girls Higher Secondary Schools which are selected for introducing

Diploma in Teacher Training Course have fulfilled the conditions prescribed in G.O.Ms. No. 645, dated 20.7.1992. The only inference to be

drawn by this Court is that the conditions have not been fulfilled by those institutions. The action of the Government is, therefore, arbitrary.

8. Apart from that, the Government has only attempted to show that in some of the Girls Higher Secondary Schools numbering about 40, the

vocational course in Teacher Training was being conducted between 1985-86 and 1989-90 at plus two stages. Admittedly, the qualifications

prescribed for the said vocational course were inferior than those prescribed for the Diploma in Teacher Training Course. It should be noted that

the minimum educational qualification for admission into the vocational course in the Higher Secondary School was only a pass in the X Standard

with required marks and not a pass in plus two examination as required for the diploma course. Hence, the Government is in error in assuming that

the schools which had conducted vocational courses upto 1989-90 are qualified to conduct the Courses for Diploma in Teacher Education.

9. The respondents have filed typed sets of papers containing the particulars of 90 Government Girls Higher Secondary Schools in which diploma

courses were introduced pursuant to G.O.Ms. No. 645. A perusal of the same shows that with regard to some of the schools, the relevant

particulars such as qualifications and the experience of the teachers employed therein are not given. None of the schools fulfils the requirements of

G.O.Ms. No. 645. None of the schools comes anywhere near the standard prescribed in G.O.Ms. Nos. 535 and 536 for private institutions.

None of the said schools should have been permitted to open the diploma course. In the proceedings of the Director of School Education in Rc.

No. 51347/W26/WIII/92, dated 7.8.1992, reference is made to G.O.Ms. No. 645 and the order of the Director of School Education to start the

Diploma Course in the selected schools. Instructions are given to Heads of such Institutions. As the G.O. itself is invalid, the proceedings of the

Director of School Education issued on the basis of the G.O. is equally void and illegal.

10 There is no merit in the contention that the writ petitions have been infructuous as the Government has discontinued the operation of the G.O. in

1993-94. The commencement of the course in those institutions in 1992-93 is itself illegal and the students admitted to the course in that year

cannot be permitted to continue the course in the second year. As the schools do not have recognition to conduct the course, the students of those

schools cannot be permitted to write the examinations in the second year. They are in no way better than the students of the derecognised

institutions.

11. The Government has admitted in the counter-affidavit that large number of trained Secondary Grade Teachers were waiting for appointment

and, therefore, the Government dispensed with the Teacher Training Course in Higher Secondary Schools in 1989-90. On 8-11-1991, the

Director of School Education issued a Notification, which was published in ""The Hindu"" dated 9.11.1991, to which we have made reference in our

judgment in P.M. Joseph v. State of Tamil Nadu and Ors. 1993 W.L.R. 604, that there were about 45,000 trained Secondary Grade Teachers

registered with the Employment Exchanges and awaiting employment. That was the reason for the Government not to permit the establishment and

running of new Teacher Training Institutes with effect from the academic year 1991-92. It is not as if by the time the impugned G.O.Ms. No. 645,

dated 20.7.1992 was passed, most of the trained secondary grade teachers got employed and there was a need for opening new teacher training

Institutes or courses. Admittedly, the position has not changed in any manner as seen from the counter-affidavit filed in W.P. Nos. 14822 and

14862 of 1993. In paragraph 6 of the said counter-affidavit, it is said that the Government decided to discontinue the operation of G.O.Ms. No.

645 because it has directed the opening of short course in G.O.Ms. No. 685, Education, dated 16.7.1993 and because there is a glut in the

employment market of Diploma in Teacher Education holders as a result of the proliferation of Teacher Training Institutes. The first of the aforesaid

reasons is clearly unsustainable. G.O.Ms. No. 685, dated 16.7.1993 is said to have been passed only to give relief to the students of the

derecognized institutions, who according to the Government, are affected by the court orders. That has nothing to do with the alleged object of

making special provision for women. The second reason was present even at the time of the passing of the impugned G.O.Ms. No. 645.

12. The different stands taken in the counter-affidavits lead us to think that the Government is only toying with the Teacher Education in the State

without any definite policy or object and also trying to mislead the court by filing affidavits containing reckless and irresponsible statements.

13. In the result, we have no hesitation to hold that the impugned G.O.Ms. No. 645, Education Department, dated 20.7.1992 and the

consequential proceedings of the Director of School Education in Rc. No. 51347/W26/WIII/92, dated 7.8.1992 are illegal, void and

unconstitutional. The First year course conducted in the year 1992-93 in the Government Girls Higher Secondary Schools is ineffective and it will

not confer any benefit on the students who attended the said course. The writ petitions are allowed accordingly. The parties will bear their

respective costs.