

(2011) 01 MAD CK 0349

In the Madras High Court

Case No : Writ Petition (MD) No. 1679 of 2010 and M.P. (MD) Nos.1 and 2 of 2010

M. Ramanathan, The Manager (Correspondent/Secretary)
Saraswathi Vidhyasala Nursery School

APPELLANT

Vs

The District Elementary Educational Officer and The Chief
Educational Officer

RESPONDENT

Date of Decision : 28-01-2011

Acts Referred:

Citation : (2011) 01 MAD CK 0349

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : A. Arulmozhi, for Veera Kathiravan, for the Appellant; S.C. Herold Singh, G.A., for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner has come forward to challenge an order, dated 28.1.2010 passed by the first Respondent District Elementary Educational Officer, Trichy. By the impugned order, the Petitioner was informed that the Petitioner Nursery School and Elementary School was functioning without the department's approval. If any school is functioning in any of the residential area without approval of the department, steps were taken to close that school. Since it was brought to the notice of the first Respondent that the Petitioner's Nursery School and Elementary School was functioning without department approval, they were directed to close the school. If any breach, action was to be taken with the assistance of the police.

2. In the writ petition, notice was given to the Special Government Pleader. Pending notice, in the application for interim stay, this Court held that the Petitioner was directed to rectify the defects pointed out, pending which status quo was directed to be maintained. On notice from this Court, the Respondents have filed a counter affidavit, dated 12.2.2010.

3. It is seen that the Petitioner has a Nursery school, functioning in the same campus as that of Saraswathi Vidhyalaya Aided Middle school. In the same aided school, which was approved by the department, no other school can be started. Therefore, necessary certificate should have been produced for grant of approval of nursery school. Though it was claimed that the residents of that area are demanding a nursery school. The Petitioner had not obtained any permission from the second Respondent nor submitted any application for approval. An improper application submitted by him was returned by the first Respondent on 24.12.2009. Though it was stated that the school was functioning in the building known as Marudam, during inspection, it was found that the nursery school is functioning in a rental building and rent was paid from the maintenance grant. There was no separate building for the Nursery school. The Nursery school cannot function in the compound where there was already pre-existed aided middle school. There are no sufficient area for the playground for the nursery school. There is no necessity to have any nursery school because eligible students can be directly admitted to the elementary school in the first standard. The order came to be passed after due publicity in newspapers.

4. The order, dated 25.1.2010 returning the application submitted by the Petitioner showed that they should produce the building plan, sale deed and the fees to be charged from the students. They should also provide a separate play ground. The existing place which is shown as toilet and play ground were shown as the place for nursery school. There are not enough fire fighting equipments. The Public Relations Officer attached to the Collectorate had issued a press release on 23.12.2009 showing 79 nursery schools are to be closed. The name of the Petitioner's school is shown in Sl. No. 33 in the list. The Petitioner was not able to show any affiliation or approval for nursery school. Therefore, by filing the writ petition of this nature, they cannot get an interim order and to continue to run the school without approval.

5. It is needless to state that any educational institution if it is not approved by the authorities in the manner known to law cannot as a matter of right run the school. The defects pointed out by the Respondents in the application filed by the Petitioner are more glaring. Pending challenge to the impugned order, the court cannot allow the Petitioner to run the school by way of an interim order. It is not a case of mere defects that has been pointed out, but the fundamental question was that the Petitioner do not have any recognition for running the nursery school. In the absence of the same, the writ petition is misconceived. Accordingly, the writ petition will stand dismissed. No costs. Consequently, connected miscellaneous petitions stand closed.