

**(1989) 01 MAD CK 0079**  
**In the Madras High Court**  
**Case No : Writ Petition No. 7427/86**

N. Sampathu

APPELLANT

Vs

The Chief Educational Officer, Vellore and Others

RESPONDENT

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**Date of Decision :** 23-01-1989

**Acts Referred:**

Tamil Nadu Education Rules, 1892 — Rule 15, 15(2)

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 19

**Citation :** (1989) 1 LLJ 382 : (1989) 2 LW 120

**Hon'ble Judges :** S. Nainar Sundaram, J; Bellie, J

**Bench :** Division Bench

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## Judgement

Nainar Sundaram, J.—The petitioner is a teacher in a private school, administered and managed by the third-respondent, which is a minority institution. On 30th August 1979, the petitioner was appointed as a Secondary Grade Assistant in the Walter Scudder Higher Secondary School, Tindivanam, of the third-respondent, hereinafter referred to as "the school at Tindivanam". The order of appointment says that the petitioner will be subject to transfer whenever necessary. After the Tamil Nadu Recognised Private School (Regulation) Act, 1973 (Tamil Nadu Act 29 of 1974), hereinafter referred to as "the Act", came into force, an agreement was entered into by the Correspondent of the school at Tindivanam and the petitioner, setting out the terms and conditions of service. This agreement is in the form prescribed by the Tamil Nadu Education Rules. This is the result of a misconception because after the Act, the form to be adopted is the one prescribed by the Rules under the Act. In this agreement, there is a term empowering the management to transfer the petitioner to any other school under its control. On 30th May 1985, the petitioner was transfer from the school at Tindivanam to another school at Kasam, Katpadi, also under the management of the third-respondent. On 29th May 1986, the third-respondent passed a resolution to transfer the petitioner to the school at Gingee, Tindivanam Circle. On 31st July 1986, the petitioner approached this Court, by way of the writ petition, questioning the concerned resolution. The writ petition was admitted

and Rule NISI was issued on 1st August 1986. On 4th August 1986, the fourth-respondent directed the petitioner to be relieved from duty and to join the other school.

2. In this writ petition, same questions as those which we have dealt with in *T. Chandrasekaran Vs. The Committee of Management of Pachaiyappa's Trust and Others*, disposed of by us to day, come up for consideration. In view of the answers given by us in the said writ appeal, this writ petition has got to be allowed. Yet, learned counsel for respondents 3 and 4 would put forth a contention that the private schools, being run by a minority institution, the statutory forms, prescribed by the rules framed under the Act, cannot be held to be applicable to them, and learned counsel for respondents 3 and 4 wants us to spell out a proposition to that effect by implication. His argument proceeds as follows : The provisions of the Act relating to School Committee, its constitution and functions having been held to be inapplicable to private schools run by minority institutions by the Bench of this Court in W.P. No. 4478 of 1974, etc., batch, Order dated 17th December 1975. Rule 15(2) must be held to have become unworkable since it contemplates only the school committee of private schools entering into an agreement of service with the staff. This, in our view, is a desperate thinking. Section 19 of the Act and rule 15(2) of the Rules have not come within the scathe of the pronouncement of the Bench. Section 19 speaks about the rule-making power of the Government, regulating the conditions of service. Rule 15 speaks about the qualifications and conditions of service of staff in private schools. The statutory prescriptions do apply to private schools manned even by minority institutions. Any difficulty experienced with reference to the format or formality of entering into the contract, shall not abrogate the very statutory prescriptions regarding conditions of service. Furthermore, there is no specific attack founded on pleadings with regard to either Section 19 of the Act or rule 15 of the Rules. We are not prepared to countenance this line of thinking, which we have already characterised as a desperate one. In fact, Mr. K. Chandru, learned counsel for the petitioner, would draw our attention to the following pronouncements of the Highest Court in the Land to stress a point that courts must lean to save prescriptions, though by way of restrictions for the purpose of ensuring better service conditions for the staff of private schools, run even by minority institutions :

(i) *Frank Anthony Public School Employees' Association Vs. Union of India (UOI) and Others*, ;

(ii) *Y. Theclamma v. Union of India and others* : [1987]2SCR974 ; and

(iii) *Christian Medical College Hospital Employees' Union and Another Vs. Christian Medical College Vellore Association and Others*,

Accordingly, the petitioner succeeds and the Writ Petition is allowed. We make no order as to costs.