

(1998) 09 MAD CK 0021

In the Madras High Court

Case No : Writ Petition No. 4879 of 1998

Neelakanda Hindu Elementary School Pathai

APPELLANT

Vs

The Director of Elementary Education, The District
Elementary Education Officer, The Additional Asst. Ele. Edu.
Officer and Hariharan

RESPONDENT

Date of Decision : 17-09-1998

Acts Referred:

Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 — Rule 15

Citation : (1998) 09 MAD CK 0021

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : A. Sankarasubramaniam, for the Appellant; M. Rathinam, Government Advocate for RR. I to 3 and K. Chandrasekaran, for 4th Respondent, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Subramani, J.—Petitioner seeks issuance of writ of certiorari calling for the records of the 3rd Respondent dated 3.3.98 made in Na.

Ka. No. 147 A2/98, and quash the same.

2. In the affidavit filed in support of the Writ Petition, it is said that the Petitioner is the Secretary of the Petitioner-School, Kalakkad, Tirunelveli

District, and that he is occupying the post for the last 12 years. The School has two teachers, one of whom is the Headmaster. It is further said the

4th Respondent was working as Headmaster. He left the School without applying for any leave on 7.6.95. He took some records of the School

with him. The matter was reported to Respondents 2 and 3. The 3rd Respondent made a complaint to the police, and records were recovered

from him. He is not working in the School from 7.6.95, and he is absent. In his

place, one Murugammal is working as Headmistress of the School.

The School Committee is contemplating taking action against the 4th Respondent for absenting himself from the School without applying for leave

and without sanction from the Secretary. The reason for filing this Writ Petition is that the third Respondent has issued a communication to the 4th

Respondent on 3.3.1998 asking him to join the School, subject to two conditions, viz., (1) He should submit a leave application for the period

from 7.6.1995 to 3.8.1995 and (2) He should submit a proper leave application for the subsequent period during which he has absented himself

from the School. This, according to the Petitioner, amounts to interference in the internal management of the School. Statutory Authorities have no

right to permit a Headmaster who was absent for months together to join, merely on submission of leave application. Petitioner prays for the

quashing of the Order passed by third Respondent.

3. A detailed counter affidavit has been filed by 4th Respondent wherein it is stated that the Writ Petition is bad for suppression of material facts.

He prays for dismissal of the Writ Petition.

4. In the counter affidavit, it is said that on 8.3.1995, the Secretary of the School forcibly seized from him both the Attendance Register of the

Pupils and Masters., and he was pushed out of the School, and he was threatened not to enter the School thereafter. The Headmaster immediately

reported the matter to the Assistant Educational Officer, Kalakkad by registered post, and also to the District Educational Officer, Tirunelveli.

From that day on wards, the Headmaster was not permitted to enter the School. The intention was only to get rid of the Headmaster and his

brother who was working as Assistant in the School. The Assistant Educational Officer directed the Secretary to return the Registers. Thereafter

on 7.6.1995, 4th Respondent was assaulted and driven away, and the Management refused to comply with the direction of the A.E.O. On

15.6.1995, 4th Respondent sent a notice to the Management, through his advocate, narrating all the facts. On 15.6.1995, the A.E.O. directed the

Headmaster to handover the other records to the Management. The Management sought police assistance, and on 23.6.1995, in the presence of

Inspector of Police, Kalakkad, the Management took possession of the records. The A.E.O. was also present. In that letter, it was stated that the

Headmaster is on medical leave. But the deponent, i.e., Secretary of the School was not willing to treat the Headmaster as on medical leave. The

District Elementary Educational Officer, on 16.2.1996, wrote to the Management that his absence should be treated as medical leave, and upto

3.8.1995, he must be treated as on duty, and he should be permitted to join duty immediately. This was also not obeyed by the Management, By

letter dated 30.1.1997, the District Elementary Education Officer wrote to the Management on similar lines. He also complained that the

Management is not obeying the orders of the Educational Authorities. The letter also clearly states that the Management has been running the

School by employing someone else as a teacher, and it directed the School to immediately permit the 4th Respondent to join duty. The said letter

was also not responded by the Petitioner. The District Elementary Education Officer, by letter dated 26.3.97, intimated the Management, that the

4th Respondent has handed over his leave application also on 23.6.1995 itself through the Inspector of Police, Kalakkad, and that the stand taken

by the Management was false. Since the Management was persistently flouting the orders of the Authorities, an Order was passed on 25.6.1997

under Rule 15 of the Tamil Nadu Private School (Regulation) Act, whereby the Authorities took upon themselves the power of disbursement of

grant. Even though an appeal was preferred against that Order, the same was dismissed.

5. The reason for ordering direct payment of salary was only because of the disobedience on the part of the Management. On 8.2.1998, the

District Elementary Education Officer, Tirunelveli forwarded the 4th Respondent's service register and leave application form to the Assistant

Elementary Education Officer Kalakkad, for further action. The Assistant Elementary Education Officer was also empowered to grant leave and

other benefits to the fourth Respondent. The Assistant Elementary Education Officer did not obey the Orders of the District Elementary Education

Officer's directions, since he was also siding the Management. The present letter dated 3.3.1998 issued by the Assistant Elementary Education

Officer is only to oblige the Management as if the 4th Respondent is absent without submitting leave application. According to 4th Respondent, this

is only because of collusion between the Authorities and the Management, and he has been made a victim of the same. When the District

Elementary Education Officer himself has stated that leave application has already been given through the Inspector of Schools, his Subordinate

Officer is bound to obey the Orders and act according to the direction of his superior. Without obeying that Order, the present Order impugned in

this Writ Petition has been passed only to help the Management. Therefore, the 4th Respondent prayed for dismissal of the Writ Petition. The 4th

Respondent has also filed a typed set of papers to substantiate his case that the leave application itself was filed on 23.6.1995.

6. After hearing learned Counsel on both sides, I do not think that the Petitioner is entitled to any relief. None of the facts referred to in the counter

affidavit of fourth Respondent is disputed by Petitioner. Petitioner finds fault with the impugned Order stating that the A.E.E.O. has no jurisdiction

to pass such an order. As against the said contention, the Headmaster complains that this is another attempt by the A.E.E.O. to support the case of

the Management by finding fault with him that he has not submitted his leave application. Evidence has been produced before this Court that the

District Elementary Education Officer himself has stated in his proceedings dated 26.3.1997 that the Headmaster has already handed over the

leave application on 23.6.1997 when the records were handed over by the Headmaster to the Management. The same has been recorded by the

D.E.E.O. and he has directed the A.E.E.O. to correct the records in view of the disobedience of the management. I do think that the A.E.E.O.

has no jurisdiction to issue such a letter. He ought to have obeyed the orders of the D.E.E.O. by taking necessary-action against the Management.

Without complying with the direction, giving a handle to the Management as if the Headmaster is at fault, is unbecoming of an Officer. I find that the

A.E.E.O. has issued the impugned Letter only to help the Management.

7. Since the Petitioner has suppressed material facts in this Writ Petition, I do not think that any relief could be granted to him in this case. The Writ

Petition is, therefore, with costs. Advocate's fee Rs. 1,500/-. (Rupees One thousand five hundred only). Connected W.M.P. is also dismissed.

GS/CH/VCS