

(2010) 02 MAD CK 0032

In the Madras High Court

Case No : Writ Petition No"s. 33594 and 42629 of 2002 and W.M.P. No"s. 49745 and 62872 of 2002

North Arcot Ambedkhar and Sambuvarayar District
Recognised Private Aided Primary and Middle Schools
Managers and Teacher managers Association

APPELLANT

Vs

The State of Tamilnadu and Others
Tamilnadu
Recognised Aided Private Private School Managers
Association Vs The State of Tamilnadu and Others

RESPONDENT

Date of Decision : 08-02-2010

Acts Referred:

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 15, 18
Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 — Rule 12

Citation : (2010) 02 MAD CK 0032

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Advocate : G. Jeremiah, for the Appellant; A. Suresh, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—In W.P. No. 33594 of 2002, North Arcot Ambedkhar and Sambuvarayar District Recognised Private Aided Primary

and Middle Schools Managers and Teacher Managers Association, represented by its Secretary and in W.P. No. 42629 of 2002, filed by the

Tamilnadu Recognised Aided Private Private School Managers Association represented by its President have challenged G.O. Ms. No. 53,

School Education Department, dated 26.4.2002, by which, the Government have ordered for formation of Four-Tier Committees namely State,

District, Block and Village levels to implement and monitor the Sarva Shiksha Abhiyan programmes in Tamilnadu.

2. Counter affidavits have been filed in both Writ Petitions. As pleadings and submissions advanced by the learned Counsel appearing for both

sides are common, the Writ Petitions are disposed of by a common order.

3. According to the writ petitioners, the respective Associations were formed to espouse the cause of its members, who are the Managements of

various recognised Private Aided High Schools, Primary and Middle Schools, which are aided by the Government. The members of the

Associations have been maintaining the school building and providing necessary facilities and infrastructure, out of the maintenance grant received

from the government.

4. The petitioners have further contended that the provisions of the Tamilnadu Recognised schools (Regulations) Act, 1973 and the rules framed

thereunder have been implemented properly by the schools. The petitioners have submitted that the government have issued orders in G.O. Ms.

No. 53, School Education Department, dated 26.4.2002, by which they have directed formation of Four-Tier Committees namely State, District,

Block and Village members to implement and monitor Sarva Shiksha Abhiyan programmes in Tamilnadu. It is further submitted that the State

Project Director, Sarva Shiksha Abhiyan, Chennai, has been appointed as the Project Director and implementing authority. Contending inter alia

that the constitution of the Committees would amount to interference in the management and administration of the aided schools in which Sarva

Shiksha Abhiyan is implemented, the petitioners have preferred the present Writ Petitions challenging the Government Order stated supra.

5. Referring to Sections 15, 18 of the Tamilnadu Recognised Private Schools (Regulations) Act, 1973 and Rule 12 of the Rules framed

thereunder, Mr. G. Jermiah, learned Counsel for the writ petitioners submitted that when the above said statutory provisions, envisage a

constitution of a school committee and when Section 18 read with Rule 12 prescribe the functions of the school committee and the responsibility of

the educational agency under the Act, by which the school committees shall have exclusive functions, namely (a) to carry on the general

administration of the private schools excluding the properties and funds of the private school; (b) in the matter of appointment of teaching and non

teaching staff, fixation of their pay and allowances and define their duties and

the conditions of their service, the District and Block level committees ordered by the government, have no jurisdiction or authority to interfere with the administration and management of the schools, in which Sarva Shiksha Abhiyan Scheme is implemented.

6. Referring to the inclusion of the District Panchayat Council Chairman and the Village Level Committee Chairman (two members) at the District

level committee and the inclusion of the panchayat Union Chairman and VLC President/representative, at the level of the Block Education

Committee, learned Counsel for the petitioners submitted that the above two persons have no authority or jurisdiction to interfere with the administration and management of the aided schools, which implement the scheme and therefore, the impugned Government Order has to be set aside.

7. Referring to Clauses 6, 10, 13 of the Tamil Nadu Recognised Private Schools (Regulations) Rules and the responsibility set out for the Block

Level Education Committee, learned Counsel for the writ petitioners submitted that by virtue of the inclusion of the above clauses, there is every

possibility of the heads of the local bodies to interfere in the matter of appointment, admission and in every sphere of administration of aided schools under the Act.

8. Learned Counsel for the petitioners further submitted that when there is an hierarchy of authorities constituted under the government Order is to

implement the provisions of the Tamilnadu Recognised Private Schools (Regulations) Act, 1973 and the rules framed thereunder. The management

of the various schools, cannot be made answerable to these committees constituted under the impugned Government Order and therefore it is

nothing but usurping their powers. He further submitted that the petitioners have no grievance in so far as the inclusion of the educational authorities

in the committee, but the presence of Chairman/President of the Local bodies, is opposed to the statutory provisions.

9. Reiterating the averments made by the Special Secretary to the Government, School Education Department, Chennai, Mr. A. Suresh, learned

Government Advocate submitted that the powers of State, District, Block and Village Level Committees envisaged in G.O. Ms. No. 53, School

Education Department, dated 26.4.2002 are purely academic nature to monitor

the implementation of Sarva Shikshya Abhiyan, a Centrally sponsored scheme. The Government Order pertains to formation of four tier committees including Village Level Committee for Planning.

Monitoring and implementation of Sarva Shikshya Abhiyan and therefore, the Government Order is applicable to all the schools wherever the said scheme is implemented and funds are granted.

10. He further submitted that representation for Educational Teachers, Parent Teachers Association, Elected Representatives are provided in the

constitution of committees. The Headmaster of the school in the Village is the Member Secretary of the Village Level Committee under Sarva

Shiksha Abhiyan Scheme. None of the functions listed in the Writ Petitions, like appointment of teachers, admission of students and general

administration of the schools come under the role and responsibilities of Village Level Committees listed in the Government Order. The role of

Village Level Committee does not affect the interests of the schools and that the committee will monitor the implementation of Sarva Shiksha

Abhiyan, only.

11. He further submitted that the committees formed under the Government Order have a clear mandate. Management schools need not have any

apprehension in the functioning of the committee. The Village Level Committee does not constitute any authority by itself. For the purpose of

constituting these committees and for familiarising the members of the Committees with their roles and responsibilities, copies of the Government

Order have been distributed to the Chief Educational Officers and District Elementary Educational Officers and Assistant Elementary Educational

Officers and District Collectors. He further submitted that there is no intention in curbing the powers of the management. The function of the Village

Level Committee will not clash with the jurisdiction of school committee constituted under the Act. Therefore, there is no question of usurping the

powers of the school committee. For the abovesaid, the respondents have prayed the dismissal of the Writ Petitions.

12. Before addressing the issue as to whether the constitution of the Four-Tier Committees, at various levels to implement and monitor Sarva

Shiksha Abiyam Programme in Tamilnadu, is an interference with the general administration and management of the primary schools, it is necessary

to look at some of the statutory provisions under the Act and the rules framed thereunder.

13. Chapter IV of the Tamilnadu Private Schools (Regulations) Act, 1973, deals with School Committee, its Constitution and its functions; Section

15 of the Act deals with Constitution of the school committee. The functions of the school committee and responsibilities of the educational agency

under the Act are set out in Section 18, which reads as follows:

18. Functions of the school committee and responsibility of educational agency under the Act: (1) Subject to the provisions of this Act and the

rules made thereunder, the school committee shall have the following functions, namely

(a) to carry on the general administration of the private school excluding the properties and funds of the private school;

(b) to appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their

service; and

(c) to take disciplinary action against teachers and other employees of the private school.

(2) The educational agency shall be bound by anything done by the school committee in the discharge of the functions of that committee under this

Act.

(3) For the purposes of this Act, any decision or action taken by the school committee in respect of any matter over which the school committee

has jurisdiction shall be deemed to be the decision or action taken by the educational agency.

14. The corresponding rule relating to the constitution of the school committee in every private school as per Rule 12 of the Tamil Nadu

Recognised Private Schools Regulation rules and it reads as follows:

12. Constitution of the school committee:(1) The educational agency of every private school shall constitute a school committee.

(2) The term of office of the committee shall be three years. Members of the committee shall be eligible for re-nomination.

(3) The school committee shall consist of not more than the following number of members:

Members

(i) Representatives of the educational agency who shall 6
be nominated by such educational agency

Provided that the employees of the school shall not be
nominated under this category.

(ii) Headmaster of the School (Ex-officio). 1

(iii) Senior-most teachers of the school. 3

(iv) Parent-Teacher Association nominee. 1

(v) Senior-most non-teaching staff (if available) 1

15. The impugned Government Order in G.O. Ms. No. 53, School Education
Department, dated 26.4.2002, reads as follows:

ABSTRACT

Sarva Shiksha Abhiyan ½ Formation of Four -Tier Committees viz. State,
District, Block and Village levels to implement and monitor the Sarva
Shiksha Abhiyan Programmes in Tamil Nadu Orders issued.

School Education Department

G.O. Ms. No. 53

DATED: 26.4.2002

Read:

State Project Director, District Primary Education

Programme Lr. Rc. No. 669/A/SSA/2002, dt.5.4.2002

Order:

Sarva Shiksha Abhiyan is a Centrally-sponsored Scheme and this scheme is to be
implemented in all the districts of the State over a span of 10

years. The scheme is being implemented through the society namely Tamil Nadu
State Mission of Education for all at the State level.

2. State Project Director, District Primary Education Programme, who is the
implementing authority of Sarva Shiksha Abhiyan, has now requested

the Government to accord permission for the formation of four-Tier Committees
at State, District, Block and Village levels for effective

implementation, planning and monitoring the SSA Scheme.

3. The Government after careful examination have accepted the request of State

Project Director, DPEP and accordingly direct that the following four-Tier committees be constituted for planning, monitoring and implementation of Sarva Shiksha Abhiyan. The roles and responsibilities of these committees are drawn and shown under each committee. The State Project Director, District Primary Education Programme and the Collectors in the districts are instructed to take immediate action to constitute these committees by making suitable nominations to the non-official members wherever necessary and intimate the nominations made therein to the Government in due course.

I. State-level planning and implementation committee.

A. Constitution.

B. Roles and Responsibilities.

II. District-Level Committee

A. Constitution

B. Roles and Responsibilities

III. Block Level Education Committee

A. Constitution

B. Roles and Responsibilities

IV. Village, Planning, Implementation and Monitoring Committees (VLC)

A. Constitution

B. Roles and Responsibilities

(By order of the Governor)

16. Sarva Shiksha Abhiyan Scheme is intended to be implemented in all the districts of the State over a span of 10 years. The object of the scheme

is that education should be given for all. For implementing the scheme effectively, the government have appointed the State Project Director,

District Primary Education Programme as the implementing authority for the scheme. Perusal of the impugned Government Order further shows

that for effective implementation of the scheme in various primary and middle schools throughout the state, the State Project Director, District

Primary Education Programme has requested the government to accord permission for the formation of four-tier committees at State, District,

Block and Village levels for effective implementation, Planning and monitoring

the SSA Scheme. Accepting the proposals, the government have issued orders in G.O. Ms. No. 53, School Education Department, dated 26.4.2002.

17. Perusal of the Government orders further shows that Four-Tier committees have been constituted with specific roles and responsibilities. The petitioners are mainly aggrieved over the inclusion of the Chairman of the local bodies, namely District Panchayat Council Chairman and Panchayat Union Chairman, besides village level committee President as representatives. The issue is whether the inclusion of the above said persons would in any way change the constitution of the school committee or interfere with their functions. Apart from the District Panchayat Council Chairman, Village Level Committee Chairperson (two members), the committee consists of Chief Educational Officer to be the Member Secretary, District Elementary Educational Officer, District Education Officer/District Adult Education Officer/AEEO, Principal, DIET, NGO-Education/Child Labour/Differently-Abled, Educationalist, Teacher Representatives/Headmasters, Block Level Chairperson two members representing the Parent Teachers Association.

18. Similarly, the Block Level Education Committee consists of Assistant Elementary Education Officers, VLC President/representative, Teacher Representative, Parent Teacher Association Representative, DIET representatives, Additional Assistant Elementary Educational Officer etc. totalling 16 members. In so far as Village Planning Implementation and Monitoring Committees (VLC), is concerned, apart from the Panchayat President as the Chairman, the committee comprises of Senior-most Headmasters (in the village), the Parent Teachers representative and Village Level Administration Officer and others. The role and responsibilities of each the committees at various levels have been clearly set out in the Government Order. In so far as certain clauses contained in the Government Order, which are alleged to be violative of the statutory provisions Sections 15, 18 and Rule 12 of the Tamil Nadu Recognised Private Schools (Regulations) Act, 1973, the respondents in their counter affidavit have made it clear that the committees constituted under the Government Order will only monitor the implementation of Sarva Shiksha Abhiyan Programmes and nothing else. They have also made it very clear that the committees constituted under the Government Order are not entrusted

with the powers of appointment of teachers.

19. As per the Government Order, the committees have been instructed to follow up with District Level committee on teacher vacancies and

appoint and post of Volunteers for Alternative Education/Education Guarantee Scheme/Early Education Centres and to manage the Joint Account

of the Village Level Committee for infrastructure improvement and teacher support scheme and that they have no right or authority to interfere with

the functions of the school committees under the Act. The respondents have further submitted that under the scheme, enrolment of the all school

children and 100% of completion of Elementary Education of all children is one of the listed responsibilities of the Village Level Committee and no

child should be denied admission in any school on the ground of caste, religion or culture and therefore, the role of the Village Level committee is

of utmost importance in effective implementation of the scheme. The Village Level Committee in this regard does not contradict the interest of the

schools and that the committee would monitor only the implementation of Sarva Shiksha Abhiyan Programme. Pleadings disclose that training

programmes are being arranged to make village level committee members only to understand their role and responsibility and also their limits.

According to the respondents the village level committee members can only visit the schools for monitoring achievement level and in implementation

of the scheme and not to inspect them as contended by the petitioners. The respondents have also made it clear that the management schools need

not have any apprehension. It would be seen from the pleadings that the village level committees do not constitute any authority. According to the

respondents, it is not the teaching grant as claimed in the writ petitions, but the teachers would be paid Rs. 500/- each per annum towards the

purchase of teaching learning materials for effective teaching of lessons. The village level committee has been properly constituted with qualified

persons, such as School Headmaster, one educationalist, two teacher representatives, who are qualified and from the field of education. Besides,

one health worker, Village Administrative Officer, Integrated Child Development Instructors. It is the contention of the respondents that District

Primary Education Programme has been implemented in Thiruvannamalai, Villupuram and Cuddalore Districts from 1994 to 2002 and that there

was no clash of interests between the School Managements and the authorities implemented the District Primary Education Programme.

20. The Writ Petitions have been filed purely on the basis of apprehension and therefore they are not maintainable. The formation of the

committees at various levels are only for the effective implementation of the scheme is sponsored by the Government of India. When the

respondents have implemented the scheme in many districts for so many years, without any clash of interests, between the committees, it is the

considered view of this Court, that the petitioners cannot claim any exclusive right in the matter of implementation of the scheme. The participation

of various sections of society, like educationalist, Health worker, Child Development instructors, Parent-Teacher representative people's

representatives are only for effective implementation of the scheme and there is absolutely no interference in the administration and management of

the schools. The respondents have also made it clear that there will not be any interference in the matters relating to the powers and functions of

school committees constituted under the Act. Having regard to the categorical statement, the Writ Petitions are misconceived. For the above said

reasons, the writ petitions deserve to be dismissed and accordingly dismissed. The Interim Stay granted in both the Writ Petitions are vacated. No

costs.