

(1996) 08 MAD CK 0081
In the Madras High Court

P. Mariamisiria

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 16-08-1996

Acts Referred:

Citation : (1997) 1 MLJ 241

Hon'ble Judges : K.A. Swami, C.J

Bench : Single Bench

Judgement

K.A. Swami, C.J.—This appeal is preferred against the order dated 6.8.1996 dismissing Writ Petition No. 5435 of 1996, in which the petitioner/appellant has sought for issue of a writ in the nature of certiorarified mandamus to quash the order of the 5th respondent dated 10.4.1996 and also to direct respondents 5 and 6 to recognise the petitioner as the Correspondent of both the middle and high schools run by K.A.M.P. Meerania Muslim Educational Society, Singampathu, Kalakad.

2. It is surprising to note that the petitioner is fighting without making the educational society in question as a party to the writ proceedings. The educational institutions in question are run by the aforesaid educational society. It is the aforesaid educational society, which alone can appoint the correspondent of the school. In the absence of the educational society, the claim of the petitioner/appellant that she should be recognised as Correspondent of both middle and High Schools, cannot be considered.

3. That apart, the reasons stated by the learned single Judge in paragraph 9 of the order are more than sufficient to deny relief to the petitioner. It has been referred to by the learned single Judge that the Society has passed a resolution on 29.11.1995 appointing the 8th respondent as the Correspondent of the school. Disputing the correctness of that resolution and relying upon another resolution stated to have been passed under the Presidentship of the son of the petitioner, the 5th respondent has been asked to recognise the petitioner as the Correspondent. In that regard, petitioner and one Mannan have filed Original Suit

Nos. 35 of 1996 and 525 of 1995 respectively in the District Munsif's Court, Valliyoor, seeking a declaration that the petitioner is the Secretary of the Society and the Correspondent of the school in question. Similarly in O.S. No. 525 of 1995, Mannan has also sought for the similar relief.

4. The grievance made in this appeal is that the 5th respondent has not even received the representation made by the petitioner and her son Mannan regarding the appointment of the petitioner as the Correspondent and also as the Secretary of the Society. It is submitted that the 5th respondent a public authority in charge of administration of private schools under the Tamil Nadu Recognised Private Schools (Regulation) Act, has failed to discharge his duties in refusing to receive.

5. Of course, we must note for future guidance that the Public authority discharging the functions under the statute cannot refuse to receive the representations and consider them. Of course, they may find that the representation is of no worth, but, nevertheless, they cannot refuse to receive and consider the same. In this regard, the grievance of the petitioner is well founded and justified.

6. However, the question for consideration is, on that ground, whether in the instant case, there is a necessity to issue any direction as prayed for by the petitioner/appellant.

7. We have already pointed out that the petitioner/appellant has filed the suit and her son has also filed another suit challenging the very appointment of the 8th respondent as Correspondent of the school. Unless those suits are decided, neither the educational authority, nor the Registrar of Societies can go into the matter and decide the correctness or otherwise of the proceedings of the society regarding the appointment of the 8th respondent as Correspondent. Therefore, no purpose is served by directing the 5th respondent to receive the representation and consider the same on merits. Our observation as made above in para 5, is for the future guidance of the officers, discharging the functions under the Tamil Nadu Recognised Private Schools (Regulation) Act.

8. For the reasons stated above, we see no ground to admit the appeal. However, we are of the view that as both the parties are fighting with regard to the management of the educational institutions, the efficiency of the Management and the quality of teaching are likely to suffer. Therefore, it is necessary that the suits should be decided at the earliest. Consequently, while dismissing the writ appeal, we direct the District Munsif, Valliyoor, to club O.S. Nos. 35 of 1996 and 525 of 1995, try and decide them within three months from the date of receipt of a copy of this judgment. The C.M.Ps. are also disposed of. However, there will be no order as to costs.