

(2000) 01 MAD CK 0051

In the Madras High Court

Case No : Writ Petition No. 16556 of 1992

St. Joseph's Higher Secondary School

APPELLANT

Vs

The State of Tamil Nadu and 2 others

RESPONDENT

Date of Decision : 21-01-2000

Acts Referred:

Constitution of India, 1950 — Article 30

Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 — Rule 9(2)

Citation : (2000) 2 CTC 238

Hon'ble Judges : T. Meenakumari, J

Bench : Single Bench

Advocate : Mr. Issac Mohanlal, for the Appellant; Mrs. P. Selvi, Government Advocate, for the Respondent

Judgement

1. The writ petition is for the issue of writ of mandamus to direct the respondents not to give effect to the impugned letter sent by the third

respondent to the petitioner school in Na.Ka.No.8700/E3/92 dated 16.9.1992 demanding an endowment of Rs.25,000 as a pre-condition for

recognition the Higher Secondary Courses run by the petitioner school.

2. Learned counsel for the petitioner has argued that the petitioner institution is a minority institution and the respondents by the impugned letter has

demand Rs.25,000 towards the endowment fee to accord recognition to the petitioner school. Learned counsel has also argued that the

petitioner institution being a minority institution, the respondents cannot enforce Rule 9 of the Tamil Nadu Recognised Private Schools (Regulation)

Rules 1974. He has relied upon the decision of a Division Bench of this Court in W.P.No.4478 of 1974 etc. batch dated 17.12.1975. In the

above decision, the Division Bench has held that Rule 9 of the Tamil Nadu

Recognised Private Schools (Regulation) Rules, 1974 is inapplicable to the minority institutions. One of the conditions imposed in Rule 9 is that educational agencies have to deposit Rs.25,000 towards the endowment fee for recognition of Higher Secondary Courses. But the above rule does not specify about the minority institutions. The decision of the above said Division Bench has been followed by another Division Bench in *Madras English Baptist Church Madras v. The State Of Tamil Nadu*, 1991 W.L.R..419. The rulings of the Division Bench cited above have been followed by a learned single Judge of this court in *The Correspondent, St. Ignatius Higher Secondary School, Kurumbanai-629 251, Kanyakumari District and others Vs. Director of School Education, College Road, Chennai 6 and others*, . The learned Judge has held that the status of minority institution will continue even if the Government is not declaring such institutions as minority institutions and demanding creation of endowment for Rs.25,000 in respect of Minority institutions as condition for grant of recognition for Higher Secondary School is invalid. Learned counsel has argued that the petitioner school is a higher secondary school and being a minority institution the respondents have no jurisdiction to extend the applicability of Rule 9 to the minority institution as held by this Court in the above judgments.

3. Learned Government Advocate tried to substantiate her contention that even though the petitioner institution is a minority institution, they are bound to follow Rule 9 i.e. creation of endowment for Rs.25,000 in respect of minority institutions as condition for grant of recognition for Higher Secondary School.

4. Following the decisions of this court above cited I am of the view that the demand of the respondents to the tune of Rs.25,000 towards the endowment fee to accord recognition to the petitioner school which is a minority institution, is illegal. Accordingly, the impugned order is quashed.

The writ petition is allowed. No costs. Consequently W.M.P.No.23579 of 1992 is closed.