

(1993) 06 MAD CK 0034
In the Madras High Court

Tamil Nadu Minority Educational Institution Protective Council	APPELLANT
Vs	
The State of Tamil Nadu and Others	RESPONDENT

Date of Decision : 11-06-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1993) 2 MLJ 309

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Judgement

Srinivasan, J.—This writ petition has been filed by Tamil Nadu Minority Educational Institutions Protective Council for issuing of writ of mandamus directing the respondents who are the Educational Authorities and the Government to permit the students of the institutions mentioned in Annexures 3, 5 and 6 in the Judgment of this Court in P.M. Joseph v. State of Tamil Nadu by Secretary, Education Department and Ors. W.P. No. 9494 of 1992, dated 27.4.1993, to sit for examination to be conducted by the respondents and pass further orders.

2. In W.P. No. 9494 of 1992 we quashed the orders of recognition granted in favour of the institutions mentioned in Annexure 5 and Annexure 6 excepting one Institution by name Annai Sathiya Teachers" Training Institute (Women), Chidambaram, South Arcot District, our order is passed on the reasoning that none of the institutions complied with the requirements of G.O.Ms. Nos. 535 and 536, dated 17.5.1989. The validity of G.O.Ms. No. 536 was upheld by us in a batch of writ petitions disposed of earlier by us. Special leave petitions filed against our earlier order dated 22.3.1993 upholding the validity of the G.O. were dismissed by the Supreme Court on 25.5.1993. We have also found that the orders of recognition were granted only on extraneous considerations.

3. Now that the validity of the G.O. has been upheld by the Highest Court of the country, unless the institutions in question complied with the requirements of the G.O. they are not entitled to recognition. We have found that none of the

institutions referred to in the annexures to our judgment viz., Annexures 5 and 6 had complied with the requirements excepting one institution. They were not entitled to get any order of recognition. With the result we quashed the orders of recognition granted by the Government.

4. In this petition it is prayed that the students of the institutions mentioned in Annexures 3, 5 and 6 should be permitted to write the ensuing examination which is to commence on 14.6.1993. It is submitted that the students having undergone the training for full period of 2 years should be permitted to write the examination so that if ultimately the Supreme Court grants directions in favour of the students, they could have the benefit of writing examinations now. It is submitted that if ultimately the Supreme Court refuses to grant any direction in favour of the students these examinations will be of no avail to the students, as they will be invalid. It is argued that even in our judgment in W.P. No. 9494 of 1992 there is a provision to the effect that if students had already written the examinations, the results should be published by the respondents but the publication will not confer any right whatever on the institutions or the students to get consequential relief or benefit such as issue of diploma or certificate etc. Learned Counsel for the petitioner submits that the students of the institutions set out in Annexures 3, 5 and 6 must also be placed on the same pedestal as those persons who had already written the examinations. It is submitted that if the students are now allowed to write the examination which is to commence on 14.6.1993 this Court can give a specific direction that they will not be entitled to get any consequential relief or benefit such as issue of diplomas or certificate etc. unless the Supreme Court grants some directions in their favour ultimately.

5. We are unable to accept the contentions of learned Counsel for the petitioner for the following reasons:

1. This writ petition is not maintainable as it is really one for interim relief pending the final disposal of a case before the Supreme Court of India. If the petitioner wants any interim directions pending a case before the Supreme Court, it should move only the Supreme Court and not file a writ petition in this Court

2. Some of the Teachers Training Institutes-we understand about 130-filed writ petitions for the very same relief viz., issue of writ of mandamus directing the Government and Educational Authorities to permit their students to write the ensuing examination. Though the writ petitions were admitted by the Vacation Court, the petitions for interim directions were dismissed. It is observed in the order of the Vacation Court that,

In the light of the recent order of the Apex Court declining to grant permission to the students to sit for the ensuing examination to be conducted on 31.5.1993 and on 14.6.1993 and dismissing the Special Leave Petitions, I do not see any justification to countenance the claims of the petitioners at this stage.

The same reason will hold good even at present and this writ petition for the very same relief is not sustainable.

3. The present petitioner claims only to be a representative of the Teacher Training Institutes. The petitioner claims to be a body established for the purpose of protecting the interests of the institutions. Learned Counsel for the petitioner submits that it is a registered society within the meaning of Tamil Nadu Societies Registration Act. The petitioner is in other words an agent of the various institutions which are members of the petitioner society. When the institutions themselves have filed the writ petitions and failed to obtain an interim order in this Court, it is not possible for their agent or representative to file a subsequent writ petition for the very same relief seeking an order from this Court.

4. When W.P. No. 9494 of 1992 was entertained by this Court, notice was published in the newspapers under Rule 2-A of the Rules framed under Article 226 of the Constitution of India informing all the persons concerned about the prayer in the writ petition and the hearing of the same and inviting every person who would be affected by the proceedings in the writ petition to appear before the court and make submissions. In fact several individual institutions appeared before us and made representations against granting the prayer in the writ petition. We have dealt with the same in our order dated 27.4.1993. If the petitioner was interested it should have also entered appearance and argued as against the granting of prayer in that petition. It had not done so. At present our judgment is subject matter of appeal before the Supreme Court of India. Hence it is not possible for us to grant any interim direction on a writ petition of this type. If at all the petitioner should approach only the Supreme Court of India for appropriate direction.

5. Learned Counsel for the petitioner submits that this is purely a mercy petition and the court must take into account the pitiable condition of the bona fide students who have undergone training in institutions in the hope that they will have a bright and prosperous future in their lives. We do not want to express any opinion on this argument as we are quite sure that the petitioner has no legal right whatever to seek a mandamus directing the respondent to permit the students of the various institutions whose orders of recognition have been already quashed by us to write the ensuing examination. Unless a person has a legal right it is not open to such person to approach the court under Article 226 of the Constitution of India with a prayer for issue of a writ of mandamus.

6. We find that in the order dated 27.5.1993 passed by the Vacation Court, an observation is made that the order dismissing the miscellaneous petitions shall not stand in the way of the petitioners approaching the departmental authorities for any orders if it is otherwise legally permissible and this order is applicable to all the Teachers' Training Institutes, in the State. That observation is more than sufficient to enable the institutions or the petitioner here into approach the Government or the Educational Authorities for appropriate reliefs if legally permissible.

7. In the result, this writ petition fails and is dismissed.