
(1999) 12 MAD CK 0009

In the Madras High Court

Case No : W.A. No's. 1173 and 1175 of 1998

Thirunagar School Educational Committee

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 22-12-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 18(A), 34, 41, 53A

Citation : (1999) 12 MAD CK 0009

Hon'ble Judges : N.V. Balasubramanian, J;N.K. Jain, J

Bench : Division Bench

Advocate : V. Selvaraj, for the Appellant; K.M. Vijayan for La Law for 7th Respondent, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Jain, J.—These Writ Appeals are filed against the common order of the learned Single Judge made in W.P. Nos. 7449,10175 and

18309 of 1998 dated 25.08.1998.

2. The brief facts that are necessary for the disposal of the Writ Appeals are as follows:

In the Writ Petitions, the Educational Committee challenged the order of the 5th Respondent/The District Educational Officer, Madurai-2 directing

that salary will be paid to the teacher and staff of the educational institution directly by the Department. In W.P. No. 7449 of 1998, by the

impugned order dated 22.4.1998, the 7th Respondent/S. Akkinirasu, M.P, President, Thirunagar Co-operative House Building Society Ltd., has

been recognised as the Educational Agency. In W.P. No. 10175 of 1998, by impugned order dated 10.7.1998, the 8th Respondent/the District

Elementary Educational Officer, Madurai, had been approved as the Correspondent.

3. In W.P. No. 7449 of 1998, a detailed counter affidavit has been filed by the 7th Respondent S. Akkinirasu, M.P. President, Thirunagar Co-

operative House Building Society Ltd., Thirunagar questioning the maintainability of all the Writ Petitions on the ground that the Petitioner

Education Committee had already availed a remedy of Civil Suit, which is pending. All the allegations alleged in the affidavit are denied.

4. The State has also filed a counter affidavit supporting the stand that there is an inter-se dispute pending between the parties and as such, the

Writ Petitions are liable to be dismissed.

5. Separate counter affidavits had been filed in W.P. No. 10175 of 1998 denying the allegations as alleged.

6. Learned Single Judge considered the issue as to who is the Educational Agency and ultimately found that O.S. No. 286 of 1997 filed before the

District Munsif Court, Thirumangalam, is pending and accordingly held that the parties can adjudicate the issue before the Civil Court. Learned

Single Judge observed that when a suit is pending for adjudication and the parties had also joined in issue, no interference is called for exercising

the jurisdiction under Article 226 of the Constitution of India. Learned Single Judge, accepting the primary objection raised by the 6th Respondent,

by a common order dated 25.8.1998, dismissed all the Writ Petitions making it clear that the Civil Court has to decide all the questions

untrammelled by the dismissal of the Writ petitions.

7. Aggrieved against the order of the learned single Judge, the Education Committee is before us. The learned Counsel for the Appellant

contended that the learned single Judge has erred in not quashing the orders dated 27.06.1997, 20.04.1998 and 10.07.1998. He submits that the

learned Single Judge has wrongly come to the conclusion that there is an inter se dispute as to who is the Educational Agency. According to the

Appellant/Education Committee, there is no dispute as such and the Appellant is the Educational Agency.

8. On the other hand, leaned senior counsel Mr. K.M. Vijayan, appearing for the 7th Respondent, reiterated his contentions and submitted that the

impugned orders are appealable u/s 41 of the Tamil Nadu Private Schools

(Regulation) Act and admittedly, when the suit is pending, all the parties can agitate their grievance and the learned single Judge is right in dismissing the Writ Petitions and no interference need be taken-

9. We have heard the learned Counsel for the parties and perused the material on record.

10. Admittedly, an alternative remedy is available and when issues were already agitated and are pending in the suit, no direction as prayed for can

be issued in these Writ Appeals. Now, the only question remains to be seen is in the facts and circumstances of the case, whether invoking of

Section 53A of the Act by the learned Single Judge is right or not.

11. A perusal of the scheme Act reveals that Section 18(A) "of the Act deals with the "Appointment of Special Officers in certain cases" Section

34 deals with Taking over of the Management of Private School" and Section 53A deals with the "settlement of dispute as to the Educational

Agency".

12. No doubt, Government can invoke Section 53-A of the Act stating that in an Educational Agency of a private school by person or by body of

persons, pending decision, as an interim arrangement, the Government can appoint a Special Officer to discharge the functions of the Educational

Agency.

13. On over all consideration of the materials available on record, without going into the merits of the case, we, prima facie, find that no direction

as prayed for can be issued.

Though ultimately Government has power to invoke Section 53-A of the Act, there must be a Reference by the Competent authority requesting the

Government to invoke Section 53-A of the Act and then Government can name any officer to discharge the functions of the Educational Agency as

a temporary measure till ultimately the controversy is decided by the competent Court.

14. Under the facts and circumstances of the given case, we find no error or illegality in the order of the learned single Judge so as to call for any

interference. As the State Government is also a party in the pending suit, State can move an application before the Competent Authority for

invoking Section 53-A of the Act, if necessary, according to law. It is made clear that this Court has not gone into the merits of the contentions

raised by the counsel in any case, nor have gone into the issue whether such declaration can be passed or whether the suit filed is competent or

not. The parties are free to agitate their arguments and objections before the Competent Court. It is also made clear that any observation made in

the order of the learned Single Judge or by this Court will not prejudice the case of either side in deciding the controversy, 15. All these Writ

Appeals are dismissed with the above observation. No costs. Consequently, connected C.M.Ps are also closed.