

The Corporate Manager Vs. 1.The State of Tamil Nadu

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Court : Chennai

Decided On : Mar-04-2015

Judge : The Honourable Mr. Justice K.Ravichandrabaabu

Appellant : The Corporate Manager

Respondent : 1.The State of Tamil Nadu

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

04. 03.2015 CORAM THE HONOURABLE Mr. JUSTICE K.RAVICHANDRABAABU W.P.(MD)No.20737 of 2014 and M.P(MD)Nos.1 and 2 of 2014 The Corporate Manager Roman Catholic Schools, ?.Thedal?. 10/8-46 C, Bridge Ward Near Fire Station, Kuzhithurai Kanyakumari District ?. 629 163. ... Petitioner Vs. 1.The State of Tamil Nadu Rep. by its Secretary, Department of School Education, Fort St. George, Chennai ?. 09. 2.The Director of School Education College Road, Chennai ?. 600 006. 3.The Joint Director of School Education, (Higher Secondary) College Road, Chennai ?. 600 006. 4.The Chief Educational Officer, Kanyakumari District, Nagercoil 629 001. 5.The District Educational Officer, Thukalay ?. 629 175 Kanyakumari District. ... Respondents Prayer Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the Impugned Proceedings issued by the 3rd Respondent Joint Director in Na.Ka. No.103348/W4/e3/2010 dated 16.09.2014 refusing approval for the change of

Educational Agency of St. Peter's RC Higher Secondary School, Chekkal, Kanyakumari District in favour of the Petitioner, quash the same and further direct the 3rd Respondent Joint Director to give approval forthwith for the change. !For Petitioner : Mr.Issac Mohanlal For Respondents : Mr.J.Gunaseelanmuthiah Govt. Advocate ***** :

ORDER

The petitioner is aggrieved against the proceedings of the third respondent dated 16.09.2014, whereby the petitioner's request seeking for approval of change of educational agency, namely, St. Peter's RC Higher Secondary School, Chekkal, Kanyakumari District was rejected, on the reason that the petitioner has not made the application within three months from the date of change of management and that W.P(MD)No.12878 of 2010 challenging the order of direct payment is pending before this Court.

2. It is the case of the petitioner that even though they purchased the property of the above said school on 10.08.2007, the management continued with the erstwhile owner with approval of the petitioner till 31.05.2010 and the change of management from the erstwhile owner was made only with effect from 01.06.2010. Therefore, it is contended by the petitioner that the application made on 02.08.2010 within three months from the date of change of management, is perfectly within the time stipulated under the statute and therefore, the reasoning given by the third respondent is not correct. Insofar as the other reasoning, namely, the pendency of W.P(MD)No.12878 of 2010 is concerned, it is stated that the writ petition is not pending and the same is already disposed of on 25.08.2014.

3. Per contra, the respondents, by filing counter affidavit, contended that the application having not been made within a period of three months, as contemplated under the relevant Rule, the claim of the petitioner seeking for approval of change of management cannot be considered.

4. Mr.Isaac Mohanlal, learned counsel appearing for the petitioner invited this Court's attention to the Section 8 of the Tamil Nadu Recognized Private Schools Regulation Act, 1973 and contended that as per Section 8(i)(c) of the said Act, the application has been given within three months from the date of the transfer of the

management and therefore, the date of purchase of the property is not relevant for considering the application seeking for approval of change of management. He also invited this Court's attention to the declaration made by the transferor in the application made seeking for approval of transfer of management.

5. Per contra, the learned Additional Government Pleader appearing for the respondents reiterated the contention raised in the counter affidavit.

6. Heard both sides.

7. In this case, the petitioner seeks for approval of change of management. No doubt, admittedly, the petitioner has purchased the property of the school on 10.08.2007. But from the very declaration made by the vendor in the application submitted by the petitioner seeking for approval of management, it is evident that the vendor, namely, previous owner was continuing in the management of the said school till 31.05.2010. He has specifically made a declaration stating that all their rights over the school have seized only from 01.06.2010.

8. Mr. Isaac Mohanlal, learned counsel appearing for the petitioner also submitted that the correspondentship of the erstwhile owner till such period was also approved by the Educational Authorities. Therefore, it is evident that even though the petitioner purchased the property of the school, the transfer of management has not taken place immediately and on the other hand, it was postponed for three years and the same had taken place only on 31.05.2010. When that being the factual position, a perusal of Section 8(i)(c) of the said Act would show that such application seeking for approval of transfer of management has to be made within three months from the date of transfer of management of the private school. Accordingly, I find that the transfer of management having been taken place on 31.05.2010 and the application having been made on 02.08.2010, the same is well within the time as contemplated in the above said Rule and accordingly, the third respondent is not justified in contending that the application is a belated one. Insofar as the other reason, namely, with regard to the pendency of the writ petition is concerned, the fact remains that the said writ petition has already been disposed of on 25.08.2014 itself, i.e., well before the passing of the impugned order. Therefore, on this reason also, the third respondent is not correct in

rejecting the request of the petitioner.

9. Accordingly, I find that the petitioner is entitled to succeed in this writ petition. Consequently, this Writ Petition is allowed and the third respondent is directed to pass orders on the application of the petitioner seeking for approval of change of management, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed. 04.03.2015 Index:Yes/No Internet:Yes/No skn To, 1.The Secretary, Department of School Education, Fort St. George, Chennai ?. 09. 2.The Director of School Education College Road, Chennai ?. 600 006. 3.The Joint Director of School Education, (Higher Secondary) College Road, Chennai ?. 600 006. 4.The Chief Educational Officer, Kanyakumari District, Nagercoil 629 001. 5.The District Educational Officer, Thukalay ?. 629 175 Kanyakumari District. K.RAVICHANDRABAABU, J skn W.P.(MD)No.20737 of 2014 and M.P(MD)Nos.1 and 2 of 2014 04.03.2015

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