



W.P.(MD)No.10241 of 2021
D.Suresh Kumar v. The Director

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 17.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.10241 of 2021
and M.P.(MD) No.7933 of 2021
(Through Video Conferencing)

D.Suresh Kumar

... Petitioner

Vs.

- 1.The Director,
The Directorate of School Education,
College Road,Nungambakkam,
Chennai.
- 2.The Director,
The Directorate of Government Examinations,
DPI Complex, College Road,
Nungambakkam, Chennai.
- 3.The Joint Director,
The Directorate of Government Examinations
Madurai Regional Officer, Madurai.
- 4.The Chief Educational Officer,
Theni District, Theni.
- 5.The District Educational Officer,
Uthammapalayam, Theni.

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6.The CNMS Sivakami Matriculation
Higher Secondary School
Ponnagar Road,
Chinnamanur
rep. by its Principal

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent dated 04.05.2021 in Na.Ka.No.100617/B1/2021 and quash the same as illegal and consequently direct the respondents to declare the petitioner's son viz., S.Srithar (EMIS No.3325030011000325) in the Nominal Roll of the 6th respondent's school as pass for the academic year 2020-2021.

For Petitioner :Mr.M.Jerin Mathew

For Respondents :Mr.M.Lingadurai
Government Counsel

ORDER

On consent given by either side, the main writ petition has been taken up for final hearing.

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2. The present writ petition challenges the impugned communication issued by the 2nd respondent, wherein, the second respondent has informed

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the petitioner that his son is not entitled to be declared as 'pass' on the ground that the son of the petitioner does not satisfy the attendance criteria.

3. The petitioner had earlier approached this Court and filed W.P. (MD) No.7833/2021. The final order passed in this writ petition will explain the facts of the case and the direction issued by the Court and hence, the entire order dated 15.04.2021 is extracted hereunder:

“This writ petition has been filed for the issue of writ of mandamus directing the respondents to act upon the letter submitted by the 6th respondent School on 02.03.2021 and to declare the petitioner's son as “passed” in the 10th standard, in line with G.O.No.48 dated 25.02.2021.

2. The petitioner is the father of Mast.Sridhar, who was studying in the 6th respondent school in the 10th standard during the academic year 2019-20. Due to the Pandemic situation, the Government took a policy decision to declare as “passed” all the 10th standard students. According to the petitioner, the 6th respondent School, while submitting the list of candidates, left out the name of the son of the petitioner



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and as a result of the same, the son of the petitioner did not get the advantage of the policy decision of the Government.

3. In view of the continuation of the Pandemic, the Government has again taken a decision to declare all the students studying in 9th, 10th and 11th standards as “passed” by virtue of G.O.No.48 dated 25.02.2021. The petitioner, therefore, wanted to take advantage of this Government Order and at least get his son declared as “passed” for the academic year 2020-21. According to the petitioner, the 6th respondent School has already informed the 5th respondent that the son of the petitioner was left out from the list and his name should be added to the list of students, who will be declared as “passed” by virtue of the Government Order. In spite of this letter sent by the 6th respondent school, there was no response from the official respondents and therefore, the petitioner made a fresh representation to the respondents on 10.03.2021. Since the same did not evoke any response, the present writ petition has been filed before this Court seeking for appropriate direction.

4. Heard Mr.M.Jerin Mathew, learned counsel for the petitioner and Mr.J.Gunaseelan Muthiah, learned Special



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Government Pleader, appearing on behalf of the respondents.

5. The learned Special Government Pleader appearing on behalf of the official respondents submitted that the 5th respondent, by letter dated 22.03.2021, has sought for details from the 6th respondent School in order to act upon the representation made by the petitioner. The learned counsel further submitted that on receiving the details from the 6th respondent School, the official respondents will take a decision in line with the G.O.No.48 dated 25.02.2021.

6. Taking into consideration the facts and circumstances of the case, there shall be a direction to the sixth respondent to furnish all the details immediately to the 5th respondent pursuant to the letter dated 22.03.2021 and the same shall be forwarded to the 2nd respondent through the 5th respondent in order to enable the 2nd respondent to take a decision in line with G.O.No.48 dated 25.02.2021. This process shall be completed within three weeks from the date of receipt of a copy of this order.”

4. Pursuant to the above order, the petitioner made a representation



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and the second respondent, through the impugned letter, dated 04.05.2021 rejected the claim made by the petitioner on the ground that the son of the petitioner did not attend the classes during the academic year 2020-2021 and hence, he is not entitled for the benefit granted in G.O.Ms.No.48 dated 25.02.2021. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

5. Heard the learned counsel for the petitioner and the learned Government counsel appearing on behalf of the respondents.

6. The children studying in Schools are facing a new challenge, wherein, they have been asked to attend the classes, which are conducted online. Virtually for the academic year 2020-2021, no physical classes were conducted and the entire year was spent only through online classes conducted by the Schools. Ultimately, when it came to conducting the examinations for classes IX, X and X1, the Government found that it was impossible to conduct the examinations and expose the students to the



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deadly virus, namely, COVID-19 and therefore, a policy decision was taken to declare as 'pass' all those students, who were in the 9th, 10th and 11th standards. The same is clear from the Government Order passed in G.O.Ms.No.48, dated 25.02.2021.

7. For proper appreciation, the relevant portion in the Government order is extracted hereunder:

“2020-21ம் கல்வியாண்டில் தமிழ்நாடு மாநில பாடத்திட்டத்தின் கீழ் செயல்படும் அனைத்து அரசு பள்ளிகள், அரசு உதவி பெறும் பள்ளிகள், மெட்ரிகுலேசன் பள்ளிகள் மற்றும் சுயநிதிப் பள்ளிகளில் 9ம் வகுப்பு பயிலும் மாணாக்கர்கள் அனைவரும் முழு ஆண்டும் தேர்வு மற்றும் 10, 11ம் வகுப்புகளில் பயிலும் மாணாக்கர்கள் அனைவரும் பொதுத்தேர்வுகள் ஏதுமின்றி தேர்ச்சி பெறுகின்றனர்.

இவர்கள் பத்தாம் வகுப்பு மற்றும் பதினொராம் வகுப்பு பயின்று வருபவர்களின் பெயர் பட்டியல் (மேஅடையெட சுழட்ட) சார்ந்த பள்ளிகளிலிருந்து பெறப்பட்டதன் அடிப்படையில் அவர்கள் தேர்ச்சி பெற்றதற்கான உரிய பதிவுகளுடன் கூடிய சான்றிதழை வழங்குமாறு அரசுத் தேர்வுகள் துறை இயக்குநர் கேட்டுக்கொள்ளப்படுகிறார்.”



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8. A careful reading of the portion extracted supra shows that the only requirement that needs to be satisfied is that the concerned students must be enrolled with the school. It is seen from the typed set of papers that already the 6th respondent school by letter dated 02.03.2021 informed the official respondents that the son of the petitioner is studying in their school and his name has been left out from the nominal roll and a request has been made to add his name in the nominal roll. This letter given by the 6th respondent satisfies the requirement of the Government order that has been referred supra.

9. The second respondent has rejected the request made by the petitioner on the ground that the son of the petitioner did not properly attend the school and therefore, he is not entitled for the benefit under the Government order. The Government order does not anywhere stipulate that the benefit will accrue to a student only if he fulfils the attendance requirement. It is not known from where the second respondent gathered such a requirement in the Government order. The second respondent cannot



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add something to the Government order, when it is not available in the Government order. Therefore, the ground raised by the second respondent for rejecting the request made by the petitioner is unsustainable.

10. The Government order clearly contemplates all the students to be declared as 'pass' and the only requirement is that their names must find place in the nominal roll that is submitted by the concerned School. The son of the petitioner satisfies this requirement and the same is clear from the letter dated 02.03.2021 given by the 6th respondent School. The education authorities need to show more sympathy and understanding, while dealing with the students, particularly during this pandemic period. There is already a surge in the number of cases before the Psychiatrists to whom children are taken for counselling during this pandemic period. The children are facing a new problem and their energy is getting dissipated by confining them inside the house. This has been going on for more than one year and the society needs to attend to this problem by being more kind with the children and not to add more pressure on them.

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11. In view of the above discussion, this Court has absolutely no hesitation in interfering with the impugned letter of the second respondent dated 04.05.2021 and the same is hereby quashed. There shall be a direction to the second respondent to declare the son of the petitioner, who is in the nominal roll of the 6th respondent school, to have passed in the 10th standard examination for the academic year 2020-2021. This process shall be completed by the second respondent within two weeks from the date of receipt of a copy of this order.

12. Accordingly, the writ petition is allowed. No costs. Consequently connected Miscellaneous Petition is closed.

सत्यमेव जयते

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Internet : Yes
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

(2) **Order Copy Expeditiously (18.06.2021)**

To

1. The Director,
The Directorate of School Education,
College Road, Nungambakkam,
Chennai.
2. The Director,
The Directorate of Government Examinations,
DPI Complex, College Road,
Nungambakkam, Chennai.
3. The Joint Director,
The Directorate of Government Examinations
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Theni District, Theni.
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Uthammapalayam, Theni.

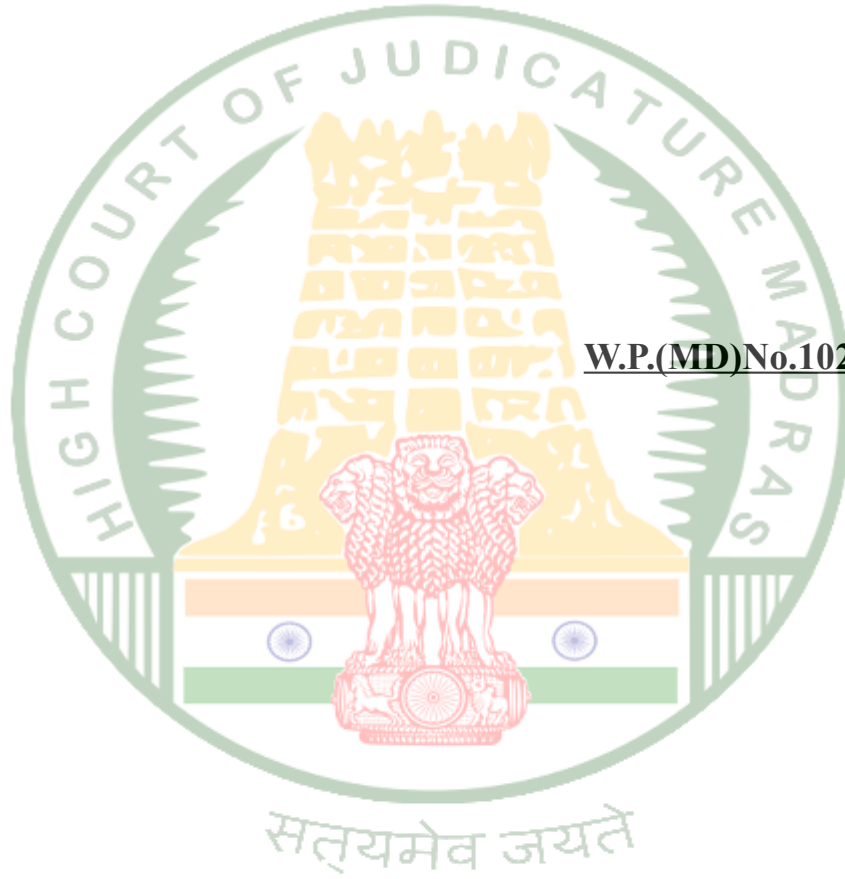
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N.ANAND VENKATESH, J.

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