

Swamy Nithyananda, President, Disciple of Swamy Chithbavananda Vs The State of Tamil Nadu

Court: Madras High Court

Date of Decision: Nov. 11, 2002

Acts Referred: Constitution of India, 1950 " Article 226

Citation: (2003) WritLR 127

Hon'ble Judges: P.D. Dinakaran, J

Bench: Single Bench

Advocate: M. Somasundaram, for the Appellant; P. Chandrasekar, Spl. Government Pleader, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

P.D. Dinakaran, J.

Heard learned counsel for the petitioner.

2. The petitioner is the President of Sri Ramakrishna Thapovanam, Thiruparaithura, Trichirapalli District, which is running 16 High and Higher

Secondary Schools besides primary and matriculation schools and colleges.

3. Contending that the Government by G.O.Ms. No. 81, School Education (E1) Department, dated 17.6.2002 proposed to conduct common

examination for 6th, 7th, 8th, 9th and 11th standards, which is opposed to Rule 13(5) of the Tamil Nadu Recognised Private Schools (Regulation)

Rules, 1974 (hereinafter referred to as the "Rules"), the petitioner seeks a writ of Certiorari to call for the records of the first respondent in

G.O.Ms. No. 81, School Education (E1) Department, dated 17.6.2002 and quash the same.

4. Placing reliance on Rule 13(5) of the Rules, Mr. M. Somasundaram, learned counsel for the petitioner contends that G.O.Ms. No. 81, School

Education (E1) Department, dated 17.6.2002, impugned in this writ petition is an inroad to the powers of the Headmaster, who alone could

exclusively decided with regard to the conduct of the examination and the promotion of pupils.

5. Rule 13(5) of the Rules deals with the powers of the Secretary of the School Committee. Rule 13(5) of the Rules makes it clear that the

Secretary of the School Committee shall not interfere with the internal administration of the school like admissions, examinations, promotion of

pupils and other academic matters which shall be the exclusive responsibility of the Headmaster.

6. Admittedly, the Headmaster of the School has no complaint against the said G.O.Ms. No. 81, School Education (E1) Department, dated

17.6.2002. If that be so, the Secretary of the School Committee, much less the President of the Management cannot be permitted to say that the

impugned G.O.Ms. No. 81, School Education (E1) Department, dated 17.6.2002 interferes with their right or with the rights of the Headmaster

conferred under Rule 13(5) of the Rules.

7. Even on merits, I am unable to accept the contention of the learned counsel for the petitioner that the impugned G.O.Ms. No. 81, School

Education (E1) Department, dated 17.6.2002 required the petitioner-school to conduct common examination for 6th, 7th, 8th, 9th and 11th

standards. In my considered opinion, the petitioner has totally misconceived the impugned G.O.Ms. No. 81, School Education (E1) Department,

dated 17.6.2002.

8. By G.O.Ms. No. 81, School Education (E1) Department, dated 17.6.2002, the Government only directed the schools to hold re-examination

during the first or second week of June in the academic year for the students who have failed in one or two subjects in their respective

examinations held in the month of April of the respective academic year in 6th, 7th, 8th, 9th and 11th standards, and further directed the School-

Management to publish the results immediately after the re-examination so that the failed students could complete the failed subjects and pass the

same in the same academic year and be promoted to the next standard. The direction of the Government issued under G.O.Ms. No. 81, School

Education (E1) Department, dated 17.6.2002, is, in my considered opinion, more beneficial to the students and general public so that the failed

students need not waste one year to complete their failed subjects. The school-management shall not in any way have any grievance in this regard

as their rights are not offended in any manner.

9. On the other hand, the petitioner-school having obtained recognition from the competent authority, in my considered opinion, is statutorily bound

to comply with the direction of the Government issued under the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act

(hereinafter referred to as the "Act") and the Rules, failing which the recognition by the Government shall be withdrawn by exercising the powers

conferred on the competent authority under Sections 12 and 13 of the Act.

10. Hence, I am satisfied that the Government has got power to pass the impugned direction, directing the private schools to hold the re-

examination for the failed candidates, as referred to above, and the schools are bound to comply with such direction in the larger interest of the

students and their better future, in order to prevent waste of one academic year for completing the failed subjects.

11. In result, finding no merits, the writ petition is dismissed. No costs. Consequently, W.P.M.P.Nos.50276 and 50277 of 2002 are also

dismissed.

12. Even though, notice was ordered by this Court on 29.8.2002, it is very unfortunate to note that the Government have not chosen to either

instruct the learned Special Government Pleader or to assist this Court to defend the impugned G.O.Ms. No. 81, School Education (E1)

Department, dated 17.6.2002. The Chief Secretary, Government of Tamil Nadu, School Education Department, is directed to take appropriate

action against the Officials concerned in this regard.