

**(2002) 11 MAD CK 0129**

**Madras High Court**

**Case No:** Writ Petition No. 34002 of 2002

Swamy Nithyananda, President,  
Disciple of Swamy  
Chithbavananda

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

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**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

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### **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.