**IN THE HIGH COURT OF MADRAS (MADURAI BENCH)**

W.P. (MD) No. 9879 of 2010 and M.P. (MD) No. 1 of 2010

Decided On: 11.10.2011

Appellants: **Solomon Matriculation School, Dr. Solomon Compound, Nazareth, Tuticorin District, Rep. by its Correspondent Jamin Solomon**
**Vs.**
Respondent: **The Chief Educational Officer, Tuticorin, Tuticorin District, The District Elementary Educational Officer, Tuticorin, Tuticorin District, The Assistant Elementary Educational Officer, (Nursery and Primary School), Bangala Street, Tuticorin and Nightingale English School, 11, Jeyapandian Street, Nazareth, Tuticorin District, Through its Correspondent, L. Mark Johnson.**

**Hon'ble Judges/Coram:**
Honourable Mr. Justice K. Chandru

**ORDER**

**Honourable Mr. Justice K. Chandru**

1. The petitioner is running a Matriculation School at Nazareth, Tuticorin District. He has filed the present Writ petition seeking for a direction to the official respondents 1 to 3 to take necessary steps to close down the 4th respondent / school after following the Tamil Nadu Recognised Private Schools (Regulation) Act, 1974 and the rules framed thereunder as well as the Code of Regulations for Approved Nursery and Primary School and pass necessary orders.

2. Notice of motion was ordered on 30.07.2010 in the Writ petition. Pending the Writ petition, no interim order was granted.

3. On notice from this Court, the 2nd respondent / District Elementary Educational Officer, Tuticorin has filed a counter affidavit dated 08.11.2010. In the counter affidavit it is stated that No Objection Certificate from the neighbouring school within a radius of one kilometer need not be obtained as they are outside the purview of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, and the neighbouring nursery school will no way affect the recognised school. With reference to the compliance with the other requirements, it is stated that the 4th respondent/School has submitted a formal application and in paragraph 5 it was averred as follows:

5.... it is submitted that the respondent Nursery School has submitted formal application for opening the nursery school. Steps can be taken to close the schools only when they will not produce requisition certificate. As far as the nursery schools are concerned, they need not follow the Rules and regulations of the Tamil Nadu Private Schools Regulatino Act, 1973 as they are not come under the purview of the Tamil Nadu Private Schools Regulation Act, 1973.

4. In the light of these facts, the case made out by the petitioner is liable to be rejected. Even otherwise, under similar circumstances, this Court in the judgment in Aided Elementary School rep.by M.Rajagopal, Mullichettipatti, Thinnapatti Post Vs. Government of Tamil Nadu, rep.by its Secretary, Education Department, Chennai and others reported in 1997 Writ LR 862 held that such a writ petition is not maintainable and a neighbouring school cannot raise such a issue and they have no locus standi to file such Writ petition. In paragraphs 11 and 12 it was observed as follows:

11....Even if running a school is considered to be not a business, I do not think there will be any change in the result. In such a case, the running of another school will not amount to competition, and consequently the petitioner will not suffer any loss. He can never be treated as an aggrieved person.

12. It is the policy of the Government to establish as many schools as possible in every village and to see that the children are educated. Article 45 of the Constitution envisages compulsory education for children. If only there are necessary infrastructure, children. If only there are necessary infrastructure, children can get education. Further, promotion of education and economic interest of the weaker section of the Society is also one of the directive principles of the State Government. Under Article 46 and 41 of the Constitution of India, which come under the Directive Principles of State Policy, it is one of the main aims of the Government within the limits of its economic capacity to educate not only the weaker section, but also to provide education to all persons. If, to fulfill this aim, schools are established, and that too Panchayat Schools, petitioners can never be heard to say that if the proposed schools are established, their schools will be affected. Petitioners cannot have any locus standi to challenge the policy of the Government. Even if they are not heard by the Government, that is not going to affect their right, since they have no legal right to be heard.

5. Though in that case, the learned Judge referred to Article 45 the Constitutional goal has come a long way and the right to education has been incorporated as a fundamental right under Article 21-A of the Constitution. Article21-A of the Constitution reads as follows:

21-A Right to education. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

6. Pursuant to the constitutional obligation, the Parliament has also enacted the Right to Education Act and therefore, all the more reason the grievance projected by the petitioner has to be repelled and hence, the this Court is no hesitation to dismiss the Writ petition. The Writ petition stands dismissed. Consequently, connected M.P.is closed. No costs.