

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P.No. of 2020

POPULAR FRONT OF INDIA

Rep by its State Secretary

...Petitioner

-Vs-

1. The Chief Secretary to Government,
Government of Tamil Nadu,
Secretariat, Chennai-9.
2. The Principal Secretary to Government,
School Education Department,
Secretariat, Chennai-9
3. The Director of School Education,
DPI Compound,
College Road, Chennai – 34.
4. The Director of Elementary Education,
DPI Compound,
College Road, Chennai – 34
5. The Director of Matriculation
Schools Education,
DPI Compound,
College Road, Chennai – 34.

... Respondents

AFFIDAVIT OF THE PETITIONER

I, J.Mohamed Rasin

presently the Tamil Nadu State Secretary of the Petitioner

Popular Front of India, having office at State Head Quarters,

Do hereby solemnly affirm and sincerely

states as follows:-

1. I am the Petitioner herein as such I am well acquainted with the facts of the present case. As such, I am filing this present affidavit.

2. I humbly states that I am filing the above writ petition seeking a **WRIT OF MANDAMUS** or any other appropriate Writ, order or directing the Respondents herein to release the time table and procedure for admission under the Right of Children to free And compulsory education Act, 2009 for the academic year 2020 – 2021 and widely publish the same in the public domain by considering the petitioner's representation dated 22.07.2020 within time frame fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and render justice.

3. I state that the Petitioner Society, namely the Popular Front of India is a society registered under the Societies Registration Act of 1860, under Registration No.226/DISTT/South/2010. Popular front of India is a socio political organization, which strives for the total empowerment of the marginalized sections of the society. As a people's movement, the Petitioner's society firmly believes that the issues before the Indian Masses are very complex in nature and requires equal concentration on different areas. The Petitioner's society concentrates on various focus areas through their programmes, projects and campaigns which are planned based on the ground realities which includes, Educational Empowerment, Community Development, Legal Defence, Protection of Civil Rights, Social

Reformation, Calamity Relief, Broad-based Alliance and Health and Hygiene.

4. I state that the Petitioner's society Community Development wing takes up the development projects and programs with dedicated Community Development Volunteers spread across 17 Indian states to work relentlessly with the focus to ensure that a sense of dignity is imbibed among the beneficiaries by empowering them socially, educationally and economically. A major national level project running by the Petitioner's society is the "School Chalo" campaign which aims to ensure zero dropouts from primary school. Another nationwide project is the "National Scholarship" Scheme which provides scholarship to the deserving students from the socially and economically backward sections of the society, which includes 2515 beneficiaries from 16 states receiving scholarship worth of Rs.1,38,77,77,240/-. Further, the Petitioner society has adopted 22 villages functional in 4 states with its new initiative project called "Sarva Sikhsha Gram", which supports 2372 students. Further, through RTE assistance Program, the Petitioner society have setup 941 Help desk and assisted 18661 students across the country to get admission under the RTE Scheme. Whereas, Popular Front of India's Educational Empowerment Program aids 3,86,216 beneficiaries in 17 states, across the nation.

5. I State that the present petition is filed in public interest seeking direction, directing the Respondents herein to release the time table and procedure for admission under the Right of Children to free And compulsory education Act, 2009 (for short

RTE Act) for the academic year 2020 – 2021 and publish the same in the public domain for the interested and eligible parents to enroll their children under the said RTE quota and protect their right to education. It is pertinent to state that the admission process under the RTE scheme would normally start by 2nd April of every year and the same has to be completed on or before 29 May of every year. Whereas, on the pretext of Covid-19, there is a undue delay in initiating the admission process for the academic year 2020 – 2021 by the Respondents, which has put the eligible Children and their parents into dilemma and severe hardship as there is no circular or press release by the Respondents clarifying the scheme. Resultantly, despite their economically weak position, the Parents are constrained to look for enrolling their children in private schools under general quota. As those private schools have already started conducting their classes through online. As such, any further delay would defeat the interest and welfare of under privileged children and the objective of the Act.

6. It is pertinent to state that that the Article 21-A of the Constitution of India enshrined right to free education to children belonging to the age group of 6 to 14 years. In view of enforcing the aforesaid cherished right of free and compulsory education. The RTE Act was enacted and brought into force. Under the aforesaid Act, a Minimum of 25% seats should be reserved under RTE Quota for students belonging to disadvantaged group/weaker section for admission in LKG and 1st Standard in private non-minority aided schools.

7. I state that the admission under the above said quota in Tamil Nadu Schools would have completed in month of May of every academic year. Unfortunately, due to the situation caused by the COVID 2019 pandemic, the admission process was not started by the respondents till this date. It is pertinent to point out that the Government of Tamil Nadu under RTE Act, 2009 and vide G.O.No.(Ms)No.59 School Education (PL.2) Department Dated: 12.05.2014, which is an amendment to GO.(Ms)No.60, School Education (X2) Department, dated 01.04.2013 has fixed the tentative date for the implementation of RTE scheme for every academic year.

8. I State that as per the said G.O, the admission process under the RTE scheme would start by 2nd April of every year and the same has to be completed on or before 29 May of every year. When that being so, the respondents herein have neither issued any notification nor made any clarification with regard to implementation of the RTE scheme in Tamil Nadu for the present academic year 2020 – 2021, even though the lockdown rules were relaxed and the normalcy has been slowly restored through social distancing. It is relevant to point out that many other States which are similarly affected with COVID-2019 has commenced their admission process under RTE Act, despite all their hurdles.

9. I state that the Respondents' delay in initiating the admission process under the RTE Act is nothing but a blatant denial of fundamental rights of the eligible Children's guaranteed under Article 21-A of the constitution and failure to exercise the statutory duty mandated under the RTE Act. In this present

scenario, the further delay would put those children under the 25% reserve quota to the disadvantage and unequal position, as most of the private schools have concluded their admission in general quota and commenced their classes via online. Even this Hon'ble Court by its order dated 17.07.2020 in W.P.No.9295 of 2020 and other batch of Writ Petitions, has allowed the school management to collect school fee in part payment from the parents, which has put the parents in economically delicate position, who are intended to claim benefit under the scheme of the RTE Act.

10. I state that this Hon'ble Court in ***Change India vs State of Tamil Nadu in Writ Petition No.14616 of 2015*** has observed in Para 3 of its order that

“i. A banner should be displayed at the entrance of the school indicating the total number of vacant seats available under 25% reservation.

ii. The schools which had not achieved 100% enrolment in this regard should keep the seat vacant for the admission of the children belonging to weaker section and disadvantaged group till November 2015. The seats should not be filled up with other children falling general category.

iii. If any application is received for admission to the vacant seats available under the 25% reservation category, it should be pursued and admission given to the applicant immediately.

iv. The School management should provide necessary information regarding the admission process to the parents.

v. A weekly report should be submitted to the concerned Directorate viz. The Directorate of Matriculation Schools and Directorate of Elementary Schools about the progress in the admission of children under 25% reservation category.”

As such, it is necessary for the respondents to issue the time table regarding the admission process for the academic year 2020 – 2021 forthwith by giving wide publicity and publishing them in the public domain and also make the process for applying in the online mode with user friendly interface by taking into the consideration of the present covid-2019 pandemic situation.

11. I state that any further apathy shown in initiating the admission process for the academic year 2020 – 2021 by the respondents would put the general public, the prospective students and their parents into dilemma and unnecessary anxiety and the same would defeat the welfare and objective of the Act and would result in poor enrolment. In this connection, the Petitioner has made a representation dated 22.07.2020 to the respondents through E-mail and Speed Post, which yield no result.

12. I state that the Petitioner has not filed any other Writ Petition in respect of the relief sought for in this Writ Petition. The cause of action for filing the present Writ Petition arose within the Jurisdiction of this Hon'ble under Article 226(2) of the Constitution.

13. The Petitioner states that he has no other personal Interest in the case. This is the first public interest litigation filed by this Petitioner. The Deponent's Aadhar number is

and the PAN card number and the deponent monthly salary is | The Petitioner undertakes to pay cost, if any, if this PIL is found to be

intended for personal gain or oblique motives. The Petitioner has filed this Petition on his own funds. To best of the Petitioner's knowledge, there is no other PIL is pending before this Hon'ble Court on this subject matter. This Public interest Litigation is maintainable under law. The contents of this paragraph are in compliance with the rules framed to regulate the Public Interest litigation filed under Article 226 of the Constitution.

13. I state that there is urgency in moving the present Writ Petition before this Hon'ble Court seeking direction to the Respondents herein to release the time table and procedure for admission under the Right of Children to free And compulsory education Act, 2009 for the academic year 2020 – 2021 and publish the same in the public domain. As the Respondents' delay in initiating the said admission process under the RTE Act is nothing but a blatant denial of fundamental rights of the eligible Children's guaranteed under Article 21-A of the constitution and failure to exercise the statutory duty mandated under the RTE Act. Further, the aforesaid apathy of the respondents would put those children under the 25% reserve quota to the disadvantage and unequal position in accessing education, wherein, most of the private schools have concluded their admission under general quota and commenced their classes via online. As such, no loss or prejudice would be caused to the Respondents on account of the interim order or relief being sought by the Petitioner. The balance of convenience thus lies in favour of the Petitioner.

For all the foregoing reasons, it is prayed that this Hon'ble Court may be pleased to issue **INTERIM DIRECTION** directing the respondents herein to ensure reservation of minimum 25% of seats in entry level class under the RTE quota for the academic year 2020 – 2021 by the schools covered under the Right of Children to free And compulsory education Act, 2009 pending disposal of the above Writ Petition and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and render justice.

For all the foregoing reasons, it is prayed that this Hon'ble Court may be pleased to issue a **WRIT OF MANDAMUS** or any other appropriate Writ, order or directing the Respondents herein to release the time table and procedure for admission under the Right of Children to free And compulsory education Act, 2009 for the academic year 2020 – 2021 and widely publish the same in the public domain by considering the petitioner's representation dated 22.07.2020 within time frame fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and render justice.

Solemnly affirmed at Chennai on this }
the 28th day of July 2020 and }
signed his name in my presence.}

BEFORE ME

(I.THAMEEN ANSARI)
#52, Law Chambers, High Court of Madras,
High court Building, Chennai – 600 104
ADVOCATE: CHENNAI

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AT MADRAS

(Special Original Jurisdiction)

W.P.No. of 2020

AFFIDAVIT OF THE PETITIONER

IZAMUDDIN

M/s. I.ABDUL BASITH M.L.,
(Ms.2541/2012)
(Ms.423/2015)
A. MOHAMED YUSUFF

N.M. SHAJAHAN
A.NOWFIL

Counsel for Petitioner