

Serial: 187412

IN THE SUPREME COURT OF MISSISSIPPI

No. 2013-IA-01677-SCT

***MISSISSIPPI STATE BOARD OF
EDUCATION, ET AL.***

Petitioners

FILED

v.

OCT 24 2013

***LEFLORE COUNTY BOARD OF
EDUCATION AND THE LEFLORE
COUNTY SCHOOL DISTRICT, ET AL.***

SUPREME COURT CLERK

Respondents

ORDER

This matter is before the Court en banc on the Motion to Stay Preliminary Injunction Pending Appeal and the Combined Petition for Interlocutory Appeal and Motion to Vacate or Stay Preliminary Injunction Pending Appeal and to Dismiss for Lack of Jurisdiction filed by the State Board of Education, the Commission on School Accreditation and the Mississippi Department of Education. Also before the Court are the Responses filed by the Leflore County Board of Education and the Leflore School District, et al.

After due consideration, the Court finds that the Petition for Interlocutory Appeal is well taken and should be granted. The Court also finds that further record preparation and briefing is not needed, and the merits of the petition may be decided at this time. The Court further finds that Cause No. 2013-TS-01699, which is the direct appeal from the same trial court order, will be decided at this time, without further record preparation or briefing.

Finally, the Court finds that the Motion to Stay Preliminary Injunction Pending Appeal should be dismissed as moot.

On September 16, 2013, the Governor of the State of Mississippi signed a proclamation pursuant to Section 37-17-6(12)(b) of the Mississippi Code, declaring a state of emergency in the Leflore County School District. On September 30, 2013, a Circuit Judge of the Circuit Court of the First Judicial District of Hinds County, Mississippi, entered an Order Granting Appellants' Motion for Injunctive Relief. The Circuit Judge found that the Leflore County Board of Education and the Leflore County School District met the requirements for injunctive relief from the State Board of Education's request that the Governor of the State of Mississippi, declare a state of emergency in the Leflore County School District. The Circuit Judge granted the motion for injunctive relief and remanded the matter to the State Board of Education for a hearing on whether a state of emergency exists in its school district.

The Court now finds that the Circuit Judge erred as a matter of law. The State Board of Education and the Commission on School Accreditation have statutory authority to make a request that the Governor declare a state of emergency when an "extreme emergency situation exists in a school district." Miss. Code Ann. § 37-17-6(12)(b). The separation of powers doctrine prohibits judicial review of a non-binding request by an executive branch agency made to the Governor as the chief executive officer. Furthermore, we find that there is no statutory right of appeal to the Circuit Court from the Governor's emergency declaration. Therefore, the Petition for Interlocutory Appeal is granted and a decision is rendered, with the Order Granting Appellants' Motion for Injunctive Relief vacated.

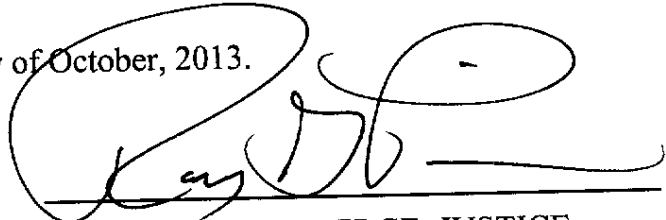
IT IS THEREFORE ORDERED that the Combined Petition for Interlocutory Appeal and Motion to Vacate or Stay Preliminary Injunction Pending Appeal and to Dismiss for Lack of Jurisdiction filed by the State Board of Education, the Commission on School Accreditation and the Mississippi Department of Education is hereby granted.

IT IS FURTHER ORDERED that the Order Granting Appellants' Motion for Injunctive Relief, entered on September 30, 2013, in Cause No. 251-13-838CIV, in the Circuit Court of the First Judicial District of Hinds County, Mississippi, is hereby vacated.

IT IS FURTHER ORDERED that the Motion to Stay Preliminary Injunction Pending Appeal filed by the State Board of Education, the Commission on School Accreditation and the Mississippi Department of Education is hereby dismissed as moot.

IT IS FURTHER ORDERED that the direct appeal in Cause No. 2013-TS-01699 is hereby dismissed. All costs of the direct appeal are assessed to the Appellees and the mandate of this Court shall issue immediately.

SO ORDERED, this the 22 day of October, 2013.

A handwritten signature in black ink, appearing to read "Randy Grant Pierce", is written over a horizontal line. The signature is stylized and includes a large loop at the end.

RANDY GRANT PIERCE, JUSTICE
FOR THE COURT

AGREE: ALL JUSTICES.